MANITOBA

ANNUAL REPORT
1982

The Human Rights Commission

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The Manitoba Human Rights Commission

1982 Annual Report

ATTORNEY-GENERAL OF MANITOBA
WINNIPEG R3C 0V8

To Her Honour,

Pearl McGonigal,

Lieutenant-Governor for the Province of Manitoba.

Madame:

May it please your Honour, it is my pleasure to present to your Honour the Annual Report of the Human Rights Commission for the year 1982.

Your obedient servant,

Roland Penner, Q.C.,

Attorney-General.

The Manitoba Human Rights Commission

(204) 944-3007/944-3008
1007 — 330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

Please refer to file _____

The Honourable Roland Penner, Q.C.

Attorney-General

Legislative Building

Winnipeg, Manitoba

R3C 0V8

Sir:

We are pleased to forward to you, the Minister responsible for administration of the Manitoba Human Rights Act, the Annual Report of the Manitoba Human Rights Commission, for the calendar year ending December 31, 1982.

Dale Gibson

Dale Gibson

Chairperson

Evolution of the Manitoba Human Rights Act

Group Factor / Grounds of Complaint	Notices/ Signs/ Symbols	Accommo-dations/ Services/ Facilities	Housing	Purchase of Property	Employ-ment	Contracts
Race	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Colour	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Nationality	—	1970	1970	—	1970	—
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Ethnic/ National Origin	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Sex	1970	—	—	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Marital Status	—	—	—	—	—	—
	1974	—	—	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Age	—	—	—	—	—	—
	—	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Family Status	—	—	—	—	—	—
	—	—	—	—	—	—
	1976	1982	1976	1982	1976	1976
Source of Income	—	—	—	—	—	—
	—	—	1974	—	—	—
	1976	—	1976	—	—	—
Religion	1970	1970	1970	—	1970	1970
	1974	1974	1974	1974	1974	1974
	1976	1976	1976	1976	1976	1976
Political Belief	—	—	—	—	—	—
	—	—	—	—	1974	—
	—	—	—	—	1976	—
Physical Handicap	1977	1977	1977	1977	1977	1977
Mental Handicap	1982	1982	1982	1982	1982	1982

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Manitoba Human Rights Commission

January 1 – February 9, 1982

Minister

The Honourable Roland Penner, Q.C
Attorney-General

Commissioners

Sig Enns ..... Chairperson
Barré Hall ..... Vice-Chairperson
Dennis Baczynsky ..... Commissioner
Hans Burmeister ..... Commissioner
Roger Cathcart ..... Commissioner
Alfred Head ..... Commissioner
Dawny Korytowski ..... Commissioner
Philip Lee ..... Commissioner
Tom Olenick ..... Commissioner
Molly Robinson ..... Commissioner
Marlene Wylychenko ..... Commissioner

Manitoba Human Rights Commission

February 10 – December 31, 1982

Minister

The Honourable Roland Penner, Q.C.
Attorney-General

Commissioners

Dale Gibson ..... Chairperson
Lawrie Cherniack ..... Vice-Chairperson
Denis Allard ..... Commissioner
Regina Bueno ..... Commissioner
Marek Debicki ..... Commissioner
Unni Hordern ..... Commissioner
John Lane ..... Commissioner
Maureen Miller ..... Commissioner
Jill Oliver ..... Commissioner
Maureen Penner ..... Commissioner
Sally Shrofel ..... Commissioner
Frank Whitehead ..... Commissioner
Claudia Wright ..... Commissioner

The Staff (as of December 31, 1982)

Executive Director

Darlene Germscheid

Winnipeg Office

Chief Human Rights Officer:
J. A. Kenneth McCuaig

Development Counsellor:
Barbara Stanford

Education Officer:
Roger Young

Human Rights Officers:
Buelah Blake
Walter Budge
Joanne Cameron
Rosemarie Cuddy
Patrick Daly
Helen Forrest
Nancy Flintoft-Meronek
Kenneth Swain
Stanley Wood

Administrative Secretaries:
Frieda Brandt
Linda Kopys
Donna May
Terry Panchuk

The Pas Office

Regional Supervisor:
Ron Chief

Administrative Secretary:
Elizabeth Bennett

The Role of the Commission

The Manitoba Human Rights is comprised of two components. One component is the civil service staff which actually carries out the investigation of complaints and the educational programs, and the other is composed of lay representatives of the public, who are appointed as Commissioners by the Lieutenant Governor-in-Council.

Commissioners are selected from various geographic, cultural, social and economic sectors of Manitoba and are appointed for a one year term.

There are thirteen Commissioners appointed, one of whom is the Chairperson, and another Vice-Chairperson.

It is the role of the Commissioners to act as policy makers for the Commission. Matters regarding policy or requiring the formulation of policy are examined by the Commissioners. All matters of compliance — complaints filed under *The Human Rights Act* — are reviewed by the Commissioners following investigation by staff. A final decision is made as to whether a complaint should be dismissed, or referred to a Board of Adjudication because conciliation has not been able to resolve the complaint.

The Commission meets regularly on a monthly basis, or as required, to review and discuss current matters and the disposition of complaints.

The Duties of the Staff

The Development Counsellor and the Human Rights Officer are the people who examine discrimination complaints for the Commission. The manner in which staff approach incoming complaints is the key to the effectiveness of the Commission in the eyes of the public.

Human Rights work is a demanding profession with the officer constantly being placed in sensitive confrontation situations. The officers bring to their positions a wide variety of skills and talents which are of assistance in the investigation and conciliation of complaints.

Human Rights professionals are required to be effective listeners, and to have the ability to relate to persons from varied backgrounds and socio-economic levels, while maintaining neutrality and objectivity. Coupled with investigative skills the officers must also be able to negotiate settlements between hostile parties without compromising the intent of the Act.

Often inquiries coming to the Commission do not fall within the Commission's jurisdiction because *The Human Rights Act* does not apply. The Development Counsellor is ready to listen to the problem and attempt to assist all callers in reaching the appropriate referral, organization or service. Direct referrals are often made to reduce "red tape" between levels of government and the various departments involved.

Educational activities are also the duty of the Human Rights Officers and Development Counsellor. The Commission, through the staff, initiates and responds to requests for speaking engagements, workshops, seminars and often general consultation. Staff members are available to conduct or provide these educational services. Every attempt will be made to see that a speaker is assigned, depending on the availability of staff resources.

In 1982 the Commission was successful in receiving authority to fill the newly created position of Education Officer. The Education Officer will be responsible for organizing and conducting educational programs and community development projects.

An Overview of 1982 Activities

1982 brought many changes to the Manitoba Human Rights Commission.

On February 10, 1982, upon the expiration of the terms of the previous members, thirteen new Commissioners were appointed. Dale Gibson was named Chairperson and Lawrie Cherniack Vice-Chairperson. The task of simultaneously learning the job and taking command presented a difficult challenge, but it was made easier by the gracious cooperation of former Chairperson Sig Enns and his colleagues, as well as by the effort and understanding of the permanent staff. The contributions of Acting Executive Director, J. A. K. McCuaig during this transitional period were particularly appreciated by the Commission.

The Transition

To help the new Commissioners assess the work that lay ahead, it was decided to retain an external consultant, Dr. Daniel G. Hill of Toronto. Dr. Hill's extensive background in human rights matters, both in Canada and abroad, qualifies him well to evaluate the operation of an agency like the Commission. Although circumstances dictated that his study be completed very rapidly, his report was illuminating, and has been of great value in assisting the Commission to formulate its plans for the future.

The most important of the Commission's initial duties was to fill the position of Executive Director which had been vacant since September 1981. Numerous applications were received, and highly qualified applicants from many parts of Canada were interviewed. The person selected was Darlene Germscheid, a human rights officer with our own staff. Ms. Germscheid took up her new duties April 29, 1982.

Former Development Counsellor, Buelah Blake, was appointed to replace Ms. Germscheid as a Human Rights Officer, and former Administrative Secretary Barbara Stanford was named Development Counsellor. Linda Kopys was appointed Administrative Secretary.

1982 also brought governmental approval for the appointment of an Education Officer, an important first step toward strengthening the Commission's education program. From a field of 254 candidates, Roger Young, an experienced Human Rights Officer, was appointed to the post in November. A competition to fill Mr. Young's former position was underway at the end of the year.

Inroads for the Hearing Impaired

The Commission made significant improvements in its ability to serve hearing impaired persons during 1982. Roger Young, who had already acquired some aptitude in signing, attended an intensive course on the subject in Washington, D.C. He had further opportunity to develop his signing skills during the summer while supervising the work of summer student, Mr. Rick Zimmer, who is deaf. One of the projects Mr. Young and Mr. Zimmer carried out together was a presentation about human rights for the Kiwanis Centre for the Deaf, which was simultaneously translated in American Sign Language (ASL) as Mr. Young spoke. Channel 13 video-taped the presentation, complete with translation, which is now available through the Commission for loan to interested organizations. The Commission has also acquired a Visual Ear which enables hearing and speech handicapped people "to talk on the phone". To use the Visual Ear, the individual simply dials the telephone number, places the telephone handset in the acoustic coupler pads built into the unit and types the message on a standard typewriter keyboard. The typed message moves across the visual display screen from right to left. The telephone number for the Visual Ear is (204) 944-3442.

A Higher Public Profile

The Commission resolved, early in the year, to display a higher public profile than in past years by making available to the news media more information about its activities. Special attention was given to educational statements about public matters that are beyond the Commission's enforcement jurisdiction, but fall within the "spirit of the Act". When a Winnipeg Member of Parliament became involved in a controversy over remarks he made concerning South Africa's racial policies, the Commission issued a public comment about his use of what was regarded as unacceptable stereotypes, and about the respective rights of both the M.P. and his critics in the matter. When a member of the Manitoba Court of Appeal made comments from the bench which reflected poorly on native Indians, the Commission again took the opportunity to point out the insidious dangers of group stereotypes. When a Winnipeg columnist, in an attempt to defend the judge in question, published an even more offensive insult to Manitoba's native Indian population, the Commission took him to task in the pages of his own newspaper. When a newspaper in southern Manitoba published an ethnic joke to which members of the ethnic group concerned took exception, the Commission submitted a letter to the editor of the periodical in question explaining to its staff and readers the pain that can be caused, albeit unintentionally, by such thoughtless "humour".

The purpose of these public statements was twofold (a) to improve public understanding of the often subtle and complex issues involved in the protection of human rights, and (b) to increase public awareness of the existence and the role of the Manitoba Human Rights Commission. While the Commission's success in the first respect was difficult to assess, the dramatic increase in caseload during the final few months of the year (—see Table 2) indicates that at least the latter goal was well served by the Commission's higher public profile.

Emphasis on Education and Training

Another educational initiative was the creation of an education and outreach committee, chaired by Commissioner Sally Shrofel, which was active in the selection of the education officer, the development of his job description, the formulation of long-range objectives for the education and outreach programs and initial planning for community volunteer programs which will allow the Commission to accomplish more with the existing limited educational resources.

In October the Commission was the host of a week-long national training conference for human rights officers. Sponsored by the Human Rights Research and Education Centre of the University of Ottawa with funding from the Department of Secretary of State and Ministry of State for Multiculturalism, the conference offered a unique educational opportunity, of which the Manitoba Commission took full advantage. The entire staff of Human Rights Officers participated, several as organizers and instructors, and all as instructees. The results, in the form of improved investigative procedures, are already becoming evident.

Policy Review

As soon as the new Commissioners and the Executive Director were familiar with their respective duties, the Commission began a methodical reassessment of its policies and procedures. A Policy Review Committee proposed an extensive updating, consolidation and simplification of past policies, which the Commission approved at its October meeting. An Employee Benefits Committee chaired by Commissioner Shrofel, has made considerable headway on the difficult task of designing guidelines that will permit *The Human Rights Act* to be applied in a fair and realistic way to complex arrangements for pensions, insurance and related employee benefits. The first draft of the committee's work was completed in late December. It is hoped that the guidelines will be forwarded to the Attorney-General early in 1983.

Executive Director, Darlene Germscheid and the staff have begun to plan a comprehensive procedures manual, which it is hoped will be approved, in at least partial form, early in 1983. The Commission has already adopted, on Ms. Germscheid's recommendation, general guidelines for approving and monitoring Special Programs under section 9 of the Act. Special Programs allow for affirmative action initiatives.

Legislative Review and Amendments

It has been evident to the Commission for some time that *The Human Rights Act* is in need of amendment. A report prepared under the direction of former Vice-Chairperson Barré Hall was submitted to the Attorney-General shortly before the new Commissioners were appointed, and the newly constituted Commission established a Legislation Committee, chaired by Dale Gibson, to review the matter in depth.

Aware that a thorough study would take considerable time, but that certain changes were required immediately, the committee recommended, and the Commission endorsed, an interim package of amendments for the 1981-82 session of the Legislative Assembly.

These amendments included a clarification of the Act's application to education and public sector activities, an extension of the prohibition against discrimination based on family status to all activities covered by the Act, the addition of mental handicap to the prohibited grounds of discrimination, and the protection formerly embodied in *The White Cane Act* was amended into *The Human Rights Act*. Where domestic workers had been excluded from the Act they are now included. A number of technical changes were also included. This package of amendments received Royal Assent on June 30, 1982.

In the meantime, the committee has continued its scrutiny of the legislation. Every provision of the Act has been critically examined and compared to the laws of other jurisdictions. The recently revised *Ontario Human Rights Code* has been especially helpful in this regard. Before deciding on recommendations to the Legislature, the Commission decided to consult public opinion. The expense of public hearings required a supplement to the Commission's already over-extended budget. Once the supplement was approved, the Commission made public a list of 12 questions about which the Commission is particularly anxious to receive public reaction, and scheduled public hearings in six centres throughout the province in January, 1983. The Commission hopes to complete the study and report to the Attorney-General by early March.

Simultaneously with the examination of *The Human Rights Act*, a committee chaired by Commissioner Marek Debicki has been developing a proposal for a provincial Bill of Rights and Freedoms, to supplement the new *Canadian Charter of Rights and Freedoms*. This proposal will also receive the Commission's attention early in the new year.

New Winnipeg Facilities

December 10, 1982 was a date of importance to everyone who values the protection of human rights: the 34th anniversary of the adoption of the United Nations General Assembly of the Universal Declaration of Human Rights. For the Manitoba Human Rights Commission the day had double significance, for it also marked the official opening of the new Winnipeg offices at 1007-330 Portage Avenue. Representatives from a number of agencies and organizations were on hand that afternoon to help dedicate the new and more efficient premises to the ideals that were embraced by the United Nations on December 10, 1948. It will take many more years of vigilance and perserverance by all who support those ideals before their attainment nears realization.

Special Programs

Of even greater importance than the many changes that occurred during 1982 were the things that remained unchanged. The Commission continued to receive large numbers of complaints about discrimination in the various areas of activity to which *The Human Rights Act* applies, and to process them through the stages of investigation, conciliation and, where necessary, adjudication. Many requests for opinions as to the applicability of the Act were dealt with and a number of Special Programs were approved under the authority of section 9 of the Act. Staff and Commissioners remained active in speaking to a wide range of organizations about the protection of human rights in Manitoba. The Commission library continued to provide an important community resource for individuals and groups wishing to learn more about human rights. A liaison was maintained with other human rights agencies in Canada and abroad through participation in such organizations as the Canadian Association of Statutory Human Rights Agencies, the International Association of Official Human Rights Agencies, and the Continuing Federal-Provincial Committee of Officials Responsible for Human Rights.

Better Communications Needed

One of the most important tasks facing the Commission during the forthcoming year will be to develop better communications with groups and organizations whose members are most seriously affected by discrimination or by allegations of discrimination. The need is especially great with respect to the organizations that represent native Manitobans. No group has experienced a longer or more deplorable history of discrimination than the descendants of North America's aboriginal inhabitants, and the problem remains distressingly prevalent today. Assisting Manitoba's native Indian population to deal with this problem is the greatest challenge currently facing the Commission. The job cannot be done by the Commission alone; some aspects of discrimination are best dealt with by the individuals or groups affected themselves. But there are many ways in which the educational and enforcement resources of the Commission can assist native Manitobans in their continuing struggle for complete equality of treatment. Such assistance cannot be fully effective without close liaison between the Commission and the native community. The Commission needs to know much more about the special problems native Manitobans encounter, and they deserve to know more about what the Commission can and cannot do to help them combat discrimination. The improvement of communications and cooperation with representatives of the native community will therefore be among the Commission's highest priorities in 1983.

The Challenge that Lies Ahead

While the Commission believes that it has reason to be pleased with its handling of these ongoing responsibilities, as well as with the improvements that have been initiated during the year, the Commission, as indicated above, is well aware that much remains to be done. The Commission recognizes that Manitobans deserve more than it is able to provide given the current resources in investigation and educational services. The Commission will attempt to make even more effective use of the limited resources in 1983 than it did in 1982, and will, at the same time, continue to press for the increases in resources that will permit the Commission to provide Manitobans with the level of human rights protection they deserve.

The Human Rights Library

The Commission has built an extensive and specialized reference library which is located in the Winnipeg Office, 1007-330 Portage Avenue. The library is a valuable tool for Commission members and investigative staff to research precedent cases from other jurisdictions. It contains up-to-date information on human rights issues on the provincial, federal and international scene.

The library is available to the public, who may borrow books without charge. It is of special interest to students who regularly make use of the specialized resource material the library provides. The library holds periodicals, reference materials, vertical files and newspaper clipping files.

In addition to the material mentioned above, the Commission is developing an audio-visual file consisting of 16 mm sound films, film strips and audio-visual cassettes which are also available for the public.

The library, through the kind cooperation of the Canadian National Institute for the Blind, has the Act and Guidelines in braille and on audio tapes.

A number of films are worth mentioning here but the public is invited to contact us regarding their specific needs.

The film "Buttonville", for which the Commission has purchased the exclusive rights to air the film in Manitoba, is available. Video tape copies may be made for school use.

The film "A Different Approach" presents a dramatic yet humourous look at the physical barriers and types of discrimination that physically disabled persons encounter.

Sexual harassment, perhaps the most recently identified area of sex discrimination is covered in two films owned by the Commission. "Workplace Hustle" and "Preventing Sexual Harassment" have been popular with both Employer, Employee and Labour Union groups.

The newest film acquisition is a film entitled "See What I Say." The film focuses on the deaf community's exclusion from cultural events. The frustration felt about having limited access to the arts is presented through interviews and footage of a concert performance interpreted for the deaf through American Sign Language (ASL). The film depicts a bridging of the social gap between the hearing and the deaf.

Inquiries pertaining to the library should be directed to the switchboard.

Enforcement Report

The Human Rights Act is provincial anti-discrimination legislation designed to protect Manitobans against discrimination.

In 1982 amendments to the Act extended the protection to include the mentally handicapped so that the Act now includes race, colour, nationality, ethnic/national origin, sex, marital status, physical or mental handicap, age, family status, source of income, religion and political belief. In certain sections a "reasonable cause" provision exists allowing the Commission to accept and investigate complaints where discrimination may have occurred against an identifiable group, ie. those with criminal record, those of a particular sexual orientation, etc. The Manitoba Human Rights Commission is the agency which administers the Act. All services provided by the Commission are available to the public without charge.

Should a person suspect that they may have been a victim of discrimination they are invited to contact the Commission's Development Counsellor and discuss their concerns. All calls are confidential and the Commission will not act on a caller's concern without their consent.

All complaints must first be examined to ensure that the issue falls within the jurisdiction and scope of the Act. In some cases, concerns which do not fall within the parameters of the Act are examined under the "spirit of the Act" because of the human rights issues involved.

A Human Rights Officer is assigned the incoming complaint and the Officer contacts the complainant to secure corroborating information and to get signed a complaint form.

The signed complaint form is served on the named respondent and a comprehensive impartial investigation is conducted. This investigation is aimed at determining the facts of the matter and ensures the rights of both parties be fully protected. On conclusion of the investigation, the investigation findings are assessed in terms of the weight of evidence and depending on the outcome of this assessment, conciliation attempts are made to resolve the matter or the complaint is dismissed because the allegation is not substantiated.

The conciliation stage is a process common to most Canadian Human Rights legislation. It allows for complaints to be resolved in an amicable fashion by the parties concerned without requiring the convening of a Board of Adjudication. Up to this point all matters are confidential to the parties involved.

Should a complaint not be resolved through the conciliation stage, the matter is referred back to the Commissioners who may refer the complaint to the Attorney-General who appoints a Board of Adjudication which will hear and decide the complaint.

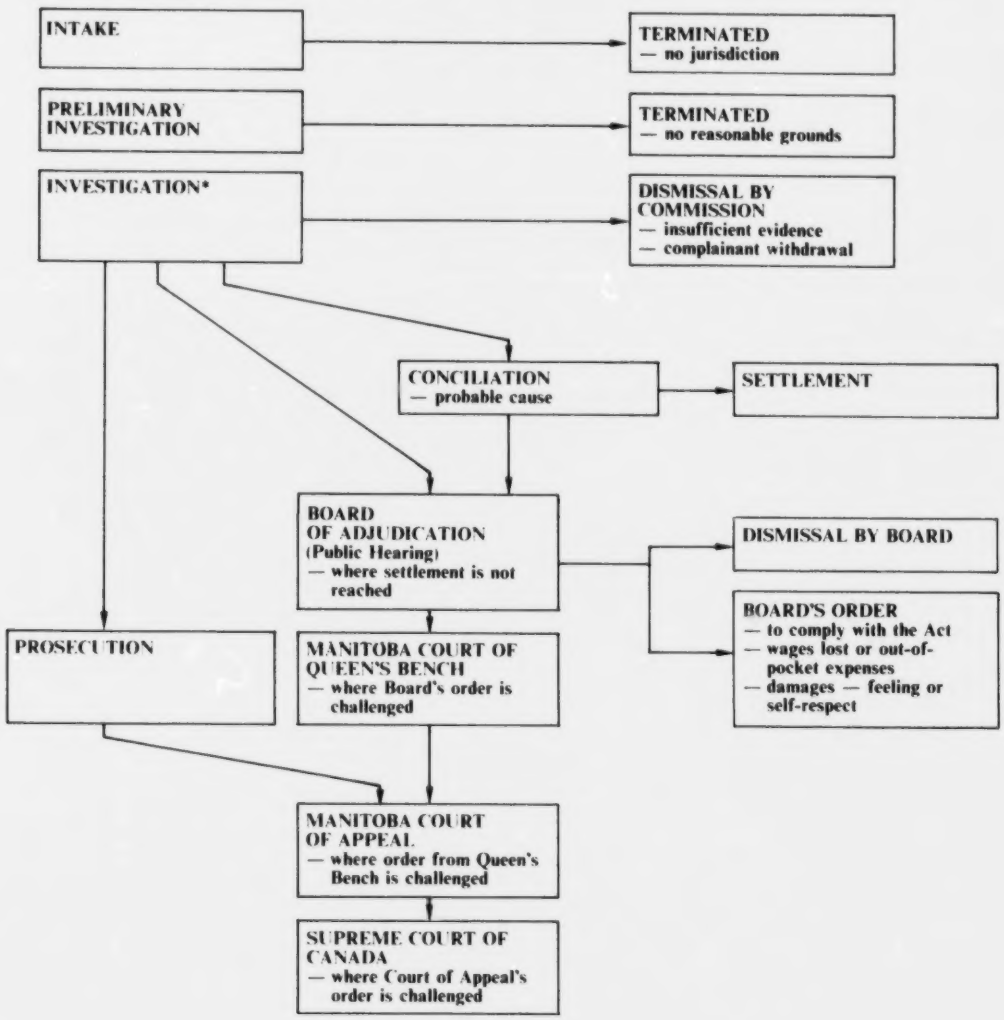
A Board of Adjudication is a formal public hearing where the complainant and the respondent present their arguments. Complainants and respondents have the right to be represented by legal counsel. Witnesses may be called and are subject to cross-examination. All testimony is taken "under oath" and witnesses are usually subpoenaed. The Adjudicator, after hearing all the evidence, determines if a contravention of the Act occurred. If it did, the Adjudicator has the authority to make an order requiring the respondent to do such things as to cease and desist, to provide the denied service or employment, to pay lost wages or benefits or to pay for out of pocket expenses incurred by the complainant.

If either party disagrees with an Adjudicator's decision they may file an appeal in the Court of Queen's Bench within the time limit set out in the Act. In some cases complaints may be appealed through the Courts to the Supreme Court of Canada.

In those cases which are dealt with under the "spirit of the Act", Commission staff endeavour to investigate them in the same fashion as mentioned above. However, resolutions obtained are the result of moral suasion and voluntary compliance.

In certain cases where criminal prosecution for violation of the Act appears appropriate, criminal proceedings may be launched, with the consent of the Attorney-General, under section 33.

Usual Steps in Processing Complaints



** After investigation, the Commission may decide at its discretion not to pursue conciliation but to choose alternative routes of a Board of Adjudication or prosecution.*

Sample Cases

The following cases are provided as an example of the types of issues, types of settlements and reasons for dismissal that often come before the Commission. They are in no way indicative of the current case load nor do they represent any particular trends in terms of areas of complaint. It should be kept in mind that each complaint must be judged on its own merits and settlements outlined in the following pages should not be considered to be a "rule of thumb" or the current "norm".

The Boards of Adjudication listed include all matters heard by Boards in 1982 including those carried over from previous years but where the decision was not received until 1982. Included under this category are those cases where the Board decision was appealed through the courts.

Boards of Adjudication

Newport vs. Manitoba Government

Allegation

Mr. Aubrey Herbert Mead Newport filed a complaint with the Manitoba Human Rights Commission against the Manitoba Government alleging that he had been discriminated against and his employment terminated for reasons based on his age.

Mr. Newport had been advised that he must retire because of the provisions of the *Civil Service Act* and Section 54 of the *Civil Service Superannuation Act* which states, "every employee shall be retired from the Civil Service on the last day of the month in which he reaches the age of sixty-five years."

Following an investigation into this matter, the Manitoba Human Rights Commission requested the Attorney-General appoint a Board of Adjudications to hear and decide Mr. Newport's complaint. Mr. Marshall E. Rothstein, Q.C. was appointed to be a Board of Adjudication.

Decision

Mr. Rothstein, in his decision, ruled that Section 54 of the *Civil Service Superannuation Act* providing a mandatory retirement age of sixty-five and subsection 22(2) of the *Civil Service Act* which makes this retirement age applicable to all civil servants, are not repealed by *The Human Rights Act*. He indicated that they continue to apply to the retirement of employees of the Province of Manitoba and therefore the action of the Government of Manitoba in retiring Mr. Newport on October 31, 1978, pursuant to the *Civil Service Superannuation Act* was not in violation of *The Human Rights Act*.

Mr. Newport, through his counsel, subsequently appealed this decision to the Court of Queen's Bench which overturned the Board decision. This decision was subsequently appealed to the Manitoba Court of Appeal and the appeal was heard in early December 1981. The Court of Appeal ruling was delivered on January 26, 1982 and the appeal was dismissed. In the words of the Chief Justice of Manitoba, the conflict between the requirement of compulsory retirement at age sixty-five and the duty of the Crown not to discriminate because of age should be resolved by holding that the duty of non-discrimination is paramount and must prevail.

The Honourable Mr. Justice A. M. Monnin, in delivering his decision, stated *"The Human Rights Act* was passed later in time, and in view of the fact that it contains a specific provision declaring the Crown to be bound . . . thereby necessarily making it applicable to members of the Civil Service . . . this is a case where the later enactment prevails over the earlier one."

The Government did not appeal the Court of Appeal ruling and the ruling stands.

Finlayson vs. City of Winnipeg Police Department and Winnipeg Police Senior Officers Association.

Allegation

Mr. John W. Finlayson was forced to retire from his position as Staff Inspector with the City Police Department because he had attained sixty (60) years of age. Mr. Finlayson filed a complaint of discrimination with the Commission. No voluntary settlement could be negotiated and at the request of the Commission, the Attorney-General appointed Mr. Marshall E. Rothstein, Q.C. as a Board of Adjudication to hear and decide the complaint.

Decisions

Preliminary hearings were held and the Board ruled it had jurisdiction to hear the merits of the complaint and that all interested parties were properly before it.

In a decision released on February 2, 1982, Marshall E. Rothstein, Q.C. ruled that in his opinion there was fact and reason, based on the practical realities of the work-a-day world and life, in respect to Mr. Finlayson's job to support compulsory retirement at age sixty (60). He subsequently dismissed the complaint but also in his decision stated that the evidence did not disclose any dishonest or malicious intent of the City in establishing the policy.

The Commission filed an appeal in the Court of Queen's Bench to the Rothstein decision and the subsequent appeal, heard by Mr. Justice J. Hamilton, dismissed the Commission's appeal on May 20, 1982. The Court was of the opinion "that the employer (had) discharged the burden upon it to establish the exception (Section 6(6)) that would otherwise make the establishment of mandatory retirement age discriminatory."

Subsequent to this decision, the Commission filed an appeal in the Manitoba Court of Appeal. The appeal was heard on October 18, 1982. By year's end no decision has been delivered.

Gurman vs. Greenleaf Meadows Investments Ltd.

Allegation

The complainant, Lavergne Susan Gurman, her brother and sister, responded to an advertisement that appeared in a local Winnipeg newspaper listing a two-bedroom apartment at Armadale Hollows. They were looking for a larger apartment than the one that they currently occupied. They spoke with the rental agent who allegedly advised them that they could not rent an apartment because the owner's policy was not to allow three single adults to occupy an apartment. Despite Gurman's attempts to clarify that they were a family and were all employed, the rental agent refused to accept them as tenants.

Investigation

This complaint was investigated by the Commission. The conciliation process was not able to resolve the matter, with the result that the Commission requested that the Attorney-General appoint a Board of Adjudication to hear and decide the complaint.

Decision

Mr. W. A. Redekopp of Winnipeg was appointed as a Board of Adjudication to hear and decide the complaint. The hearing was held on November 12, 1980 at which time the adjudicator heard the testimony of the witnesses and received written submissions from both the respondent and the Commission's counsel. On March 5, 1982 Mr. Redekopp ruled "that Greenleaf Meadows Investments Ltd. denied rental accommodation to Lavergne Susan Gurman without reasonable cause resulting in discrimination as defined under Section 4(1) and (2) of *The Human Rights Act* of Manitoba." Mr. Redekopp ruled that Greenleaf Meadows Investments Ltd. did discriminate in denying rental accommodations to Lavergne Susan Gurman.

In his order, Mr. Redekopp directed that the complainant should receive a written apology from Greenleaf Meadows Investments Ltd. apologizing for having denied Lavergne Susan Gurman, her sister and brother, from obtaining rental accommodation from the plaintiff on August 15, 1978 and further apologizing for any embarassment that may have been caused to her.

In addition to the Board Order, the Commission was also able to secure a written assurance from Greenleaf Meadows Investments Ltd. that they were abiding by the decision of the Adjudicator with respect to their rental policy.

Ziprick vs. Don Clunis

Allegation

The complainant, Edith Ziprick, filed a complaint with the Commission because her employer, Don Clunis, had fired her on November 20, 1980. Ms. Ziprick had been employed by Mr. Clunis as a school bus driver. The complainant maintained she was a competent driver and disagreed with the "unclear" and "vague" reasons provided by the respondent. In her complaint to the Commission she alleged that she had been terminated from her jobs as school bus driver for reasons based on her sex. The complaint was duly investigated but could not be resolved through the conciliation process. On October 1, 1981, the Attorney-General appointed Mr. W. C. Pearson, Q.C. of Brandon as a Board of Adjudication to hear and decide the complaint.

Decision

The hearing was commenced on January 19, 1982 at Russell, Manitoba and continued on February 11, 1982, concluding on April 29, 1982. In his decision released on October 4, 1982, the adjudicator dismissed the complaint. Mr. Pearson stated that he found the allegation of sex discrimination as the basis for the dismissal of the complainant was not substantiated by the evidence.

After reviewing this decision, the Commission moved to appeal the decision at the Court of Queen's Bench. The Commission believed that the Adjudicator had failed to consider all of the evidence in reaching a decision. By the end of December a date had not been set for the appeal.

Hufnagel vs. Osama Enterprises Ltd.

Allegation

Marilyn Hufnagel, a Winnipeg woman, was employed by the respondent from December 9, 1980 until January 11, 1981. During her period of employment, the owner of the store constantly made gross sexual comments to her and other female employees, and made sexual advances towards her. The complainant stated to the Commission that she found his comments and his physical advances extremely humiliating and totally unwelcome. She continually rejected his advances and attempted to make it clear to him that she was not interested in him. On January 19, 1981 the respondent advised her that her employment was terminated but did not give her any reason for her termination. She complained to the Commission because she believed that she had been terminated because of her negative responses to his sexual advances and comments.

Investigation

This complaint was investigated by the Commission. The conciliation process was not able to resolve the matter with the result that the Commission requested that the Attorney-General appoint a Board of Adjudication to hear and decide the complaint. Mr. Paul S. Teskey was appointed as a Board of Adjudication on March 8, 1982 to hear and decide the complaint.

Decision

The hearing was scheduled for March 31, 1982 at which time the counsel for the respondent took the position that sexual harassment was not a group factor contained in the definition of sex under *The Human Rights Act* and was therefore not a sanctionable conduct. Prior to hearing the evidence regarding the complaint, the Adjudicator, in an interim ruling, dated April 23, 1982 ruled that he had jurisdiction to deal with the complaint because sexual harassment was a form of sex discrimination envisaged by *The Human Rights Act*. As a result his interim decision was that he had jurisdiction to hear evidence with regard to the merits of the issue.

The hearings resumed on May 26, 1982. At this time, counsel for both sides agreed to a resolution to the matter and requested that the Adjudicator embody this agreement in his final record.

The Adjudicator accepted the settlement that was agreed on by the parties and ordered that the respondent pay to the complainant the sum of Two Thousand Five Hundred Dollars ($2,500.00) by way of damages and that the respondent should provide the complainant with a letter of apology, apologizing for any and all acts of discrimination which were alleged in the complaint. In addition, the respondent was to provide to the Human Rights Commission a letter of assurance whereby the respondent undertook to comply with provisions of section 6 of *The Human Rights Act*.

Paterson vs. E. H. Price Ltd.

Allegation

The complainant, Douglas Paterson, complained to the Commission that his employer, E. H. Price Ltd., had advised him in a letter prior to his 65th birthday that he would be retired at the end of March 1981 because he would be 65. Despite the complainant's statements to his employer that he did not wish to retire, the company maintained that it was corporate policy and indicated that he would be terminated on reaching 65. Mr. Paterson complained to the Commission that his employer was intending to terminate him because of his age contrary to the Human Rights Act.

Investigation

The complaint was investigated by the Commission. The respondent rejected the Commission's attempts to resolve the matter taking the position that the complainant was terminated because of poor production and not because of his age. Due to this dispute over the findings the Commission requested that the Attorney-General appoint a Board of Adjudication to hear and decide the complaint. Mr. Victor S. Savino of Winnipeg was appointed as a Board of Adjudication to hear and decide the complaint and on April 20 and 21, 1982 the matter was heard.

Decision

In a decision handed down on May 2, 1982, the Adjudicator ruled that the company had contravened the provisions of the Act, namely Section 6(1) in that the complainant had been terminated because of his age as a result of the company's compulsory retirement policy. At the same time, the Adjudicator commented on the respondent's defense that the complainant had not been doing a satisfactory job. The Adjudicator indicated that in order to consider such a defence, it was necessary for an employer to substantiate this argument with hard evidence. The respondent had been unable to do this and in fact had never formally advised the complainant of their dissatisfaction with his performance. The Adjudicator, in making his order, stipulated that the complainant was to be reinstated, that the company must refrain from terminating his reinstated employment and that the company officials should consult with him with regard to any alleged production shortcomings so that he could be given a full and complete opportunity to improve his production with the assistance of his foreman and/or other company personnel. The company was ordered to pay the complainant the sum of Three Thousand Six Hundred Dollars ($3,600.00) as compensation for lost wages and to distribute to all of its employees a copy of Section 6 of *The Human Rights Act*, together with a statement of the company's revised retirement policy which had been presented to the Board during the hearings.

Marshall vs. Fort Garry School Division No. 5

Allegation

The complainant, Nellie Marshall, filed a complaint with the Human Rights Commission alleging that she had been discriminated against by the School Division in respect of her employment as a caretaker because of her sex (female). She stated that she had worked for the School Division since 1974 and during the period 1976 until 1980 she had made several attempts to obtain

a fireman's certificate in order to qualify for a caretaker position. She stated that the School Division at that time had appeared to be more prepared to assist males who wished to acquire that qualification than they did females and she indicated that when she finally obtained the qualification and was appointed to a position as caretaker, she was required to perform duties which were not required of male caretakers.

The School Division had maintained that she had not met the level of expectations required and demoted her to her former position as matron and cleaner. She filed a complaint with the Commission alleging that she had been discriminated against for reasons based on her sex.

Investigation

The Commission investigated the complaint. However the matter could not be resolved through the conciliation process. As a result, the Commission requested that the Attorney-General appoint a Board of Adjudication to hear and decide the complaint. Mr. Paul S. Teskey of Winnipeg, was appointed by the Attorney-General as a Board of Adjudication to hear and decide the complaint.

Decision

The hearing commenced on August 19, 1982 and a decision was handed down on September 16, 1982. The Adjudicator, in his decision, indicated that the evidence presented did not establish that discrimination on the basis of sex had occurred. At the same time, the Adjudicator was critical of the employer's procedure and the manner in which the complainant was treated, even though he recognized that this was not the question before the Board. He concluded that the evidence did not substantiate the allegation that the complainant had been discriminated against because of her sex and dismissed the complaint.

Granger vs. Moses Teichman

Allegation

Mr. Gordon T. Granger, the complainant, filed a complaint of discrimination against a landowner, Mr. M. Teichman, when Mr. Teichman refused to rent an apartment to Mr. Granger because he had a child. In his complaint to the Commission Mr. Granger alleged that Mr. Teichman told him over the telephone on December 31, 1981 that he would not rent to people with children. Mr. Granger filed his complaint alleging that the respondent had discriminated against him on the basis of family status, and without reasonable cause.

Investigation

The Commission investigated the complaint and following the investigation attempted to resolve the matter through the conciliation process. The matter could not be resolved with the result that the Commission requested the Attorney-General to appoint a Board of Adjudication to hear and decide the matter.

Decision

Mr. Victor Savino was duly appointed as a Board of Adjudication. In a Board Order dated November 23, 1982, confirming a settlement reached by the parties immediately prior to the hearing, Mr. Savino concluded that denial had occurred contrary to *The Human Rights Act*. He ruled that the complainant was denied housing accommodation by the respondent due to the complainant's family status in that his family included a child.

In the order the respondent was ordered to refrain from denying housing accommodation without reasonable excuse and was directed to pay to the complainant the sum of Two Hundred and Fifty Dollars ($250.00) as damages.

McDonald vs. Knit-Rite Mills Limited

Allegation

Irene McDonald, was an employee of Knit-Rite Mills since April 26, 1971. She was employed as a helper and during her first year she trained as a cutter with Knit-Rite Mills Limited. She claimed that her duties included cutting and spreading all types of orders for over ten years. On or around July 1981, two new classifications for cutter-spreaders were established. She was placed in the lower classification with a lower wage rate. She alleged to the Manitoba Human Rights Commission that she did the same work as male persons who were classified at the higher rate. She stated to the Commission that she felt that the reason she was not given the higher classification was because she was a woman. She filed a complaint alleging that she had been discriminated against for reasons based on her sex.

Investigation

The Commission investigated the complaint and attempted to resolve the matter through the conciliation process. This was not successful with the result that the Commission requested the Attorney-General appoint a Board of Adjudication to hear and decide the complaint.

Professor Jack London, Dean of the Faculty of Law, University of Manitoba, was appointed to act as an adjudicator on this matter on November 5, 1982.

Two days of hearings were held on December 16 and 17, 1982; however, the matter could not be concluded and the Board found it necessary to schedule additional hearing dates in 1983. At the end of December 1982, no specific hearing dates had been scheduled for 1983.

Employment

Employment (Dismissal)/ Marital Status, Family Status

Allegation

The complainant, a secretary for a national organization conducting business in Manitoba, contacted the Commission after she was terminated in her position as an administrative secretary. The employer maintained that she had a possible conflict of interest because her husband did contractual work for the organization.

Investigation

The investigation revealed that the complainant's work had been satisfactory as a secretary. The local manager had accepted her personal assurances that she would not pass on any confidential information to her husband. The Manitoba head office, however, felt that a potential conflict existed because there was a possibility that she could provide her husband, a contractor, with details of tenders, submitted by other contractors who competed for projects let by the organization. It was determined however that all information regarding bids was contained in an unlocked filing cabinet in a general office where all employees could have access to it should they so wish. The respondent's main concern in the situation was the appearance of favoritism. It was determined that a number of social relationships existed between various contractors and the various levels of senior management in the branches but these were not of concern to the regional office. In addition, the local manager had suggested that in order to accommodate the complainant a declaration be secured from her regarding confidentiality but the head office refused to accept this compromise and dismissed her.

Settlement

The Commission reviewed the investigation findings and determined that the respondent in this situation had not made reasonable accommodation. The evidence did not support the respondent's position that a conflict of interest existed. The Commission met with the parties involved and the respondent agreed to offer the complainant $1,500.00 as a cash settlement in order to resolve the matter. The complainart accepted this settlement and the case was accepted as settled.

Employment (Dismissal)/Sex, Family Status

Allegation

The complainant, a pregnant female, filed a complaint with the Commission against her former employer after she was terminated shortly after informing the respondent that she was pregnant. She maintained that she was discriminated against and her employment terminated because the employer knew she was pregnant.

Investigation

The complainant was hired by the respondent as a secretary and worked for the respondent for a period of one and one-half months. The investigation revealed that she did not learn that she was pregnant until after she had been hired by the employer. The company maintained that her pregnancy had nothing to do with her termination and indicated that her performance was unsatisfactory. They produced copies of material that the complainant had typed showing errors and corrections. The complainant was on a probationary period of three months and the respondent maintained that once they had determined that the complainant could not do the job they terminated her employment. The employer also had a number of other pregnant women who were employed with them and who indicated that they had never had any problems with the employer because of pregnancy.

Conclusion

The Commission reviewed the investigative findings and determined that pregnancy was not the cause of the complainant's termination. The termination was the result of poor performance during the probationary period. As a result the Commission dismissed the complaint as being without merit.

Employment (Denial)/Race (Native Indian)

Allegation

The complainant, a Native Indian, made a complaint to the Commission in which he alleged that a temporary help firm in Winnipeg gave preference to non-Native applicants thereby denying Native people employment opportunities. The complainant also stated that the temporary help firm only hired Native people when there was a shortage of non-Native persons available. The complainant had come to the Commission because he had just finished a work assignment with the employer and the employer had noted on his U.I.C. record of employment form that he was "lazy" and that he "slept in the parks". It was because of this action on the part of the employer that he filed a complaint with the Commission alleging that the employer demonstrated a bias towards him because he was a Native person.

Investigation

The complaint was investigated by the Commission and the complaint was served on the respondent firm. The respondent denied the complaint and

provided the officer with a document signed by six Native persons who were currently employed by the company. In addition, the respondent went on to advise the officer that a large percentage of persons that were hired are Native people.

The respondent confirmed that the complainant was known to be a credible employee and there had never been any complaints about his behavior or work.

The respondent indicated that the problem had originated as a result of the actions of one of his employees who was in a supervisory capacity. This person was responsible for the derogatory remarks on the U.I.C. record of employment form. As a result of the situation the respondent had investigated the matter and had disciplined the supervisor and threatened to dismiss him if he did not immediately change his ways.

Settlement

This matter was resolved to the satisfaction of all parties. The complainant requested that the company provide him with a letter of apology regarding the incident and indicated he wished assurance that he would be considered for employment based on his qualifications when it was available.

The respondent indicated that he would be pleased to provide the complainant with a letter because he regretted the situation. He indicated that he had not been aware of the actions of his supervisor until the complaint was made known to him and reconfirmed the disciplinary measures that he had taken. He subsequently provided the Commission with a confirmatory letter indicating that he had made an official apology to the complainant.

In view of the fact that a satisfactory resolution was obtained, the Commision closed the file as settled.

Employment (Promotion)/ Physical Handicap

Allegation

A female complainant with a physical handicap alleged that she had been denied advancement in her employment because of a physical handicap. She felt that the yearly evaluations by her employer which referred to her physical handicap had influenced the decision of management and the Civil Service Commission to reject her application for a higher position.

Investigation

The investigation showed that the complainant had been hired by the same department for another position as the result of an affirmative action program initiated by the government seven years ago. The complainant had demonstrated that she had the abilities for that particular position and her supervisors confirmed that they considered her to be a dependable employee although they recognized that she was unable to do all the tasks the job description required because of her handicap.

The complainant had applied for a higher level position, responding to a competition that was bulletined by her department through the Civil Service Commission.

The employer in conjunction with the Civil Service Commission had interviewed numerous applicants and the position was awarded to a colleague of the complainant. The complainant actually rated second in the competition but maintained that she had been rejected because the employer had placed a heavy stress on an applicant's ability to use the calculator.

The investigation determined that there had been no specific testing by the department in the use of a calculator. The department confirmed that this was correct; however, they advised that the position in question required extensive use of a calculator. The complainant, on the other hand, maintained that her employer had a responsibility to provide her with an opportunity to use a calculator in her current position and that such exposure would have given her an opportunity to be qualified for the advanced position. The investigation revealed that the complainant, despite the limited dexterity in one hand, had been able to develop a minimum speed of 55 words per minute on a typewriter. The calculator used by the department had less keys and was determined to be a simpler machine to operate than a typewriter. The respondent admitted that they had been concerned about her limited dexterity and they concluded she would not have the ability to operate a calculator.

Settlement

The case was settled to the satisfaction of all parties when the respondent department agreed to encourage a training program for the complainant on an on-the-job basis or through a course study package. They also agreed to review the evaluation reports agreeing to pay less attention to comments pertaining to impaired ability because of a physical handicap.

The Civil Service Commission in conjunction with the department agreed to place less stress on physical handicaps in hiring. The Civil Service Commission advised the Commission in writing that they were reviewing all physically handicapped employees and had established a coordinator to evaluate abilities of all physically handicapped employees. Following this evaluation they plan to assess the individuals' abilities and compare them against the results of the current methods of assessment. The follow-up that they plan to implement would be to adjust and accommodate the job position in order to accommodate

the physical limitations of the employees concerned.

In view of this very positive response by the respondent department and the Civil Service Commission, the complainant declared her satisfaction with these proposals to the Commission. She indicated to the Commission that she was satisfied with the results in that she was aware that in future she would be assessed on the basis of her abilities rather than on any physical limitations. She has advised the Commission that she is now working in a more harmonious setting.

Employment (Dismissal)/Age

Allegation

A complainant, age 62, alleged that she had been terminated by her employer because of her age. The complainant had been employed with her employer for six years and had numerous years of related experience.

Investigation

The employee list revealed that there were a number of employees working for the company who were in their sixties and one individual who was 66. Further investigation involved interviews with management and co-workers. These interviews revealed that the complainant, although a pleasant person, was terminated because of unsatisfactory work performance. Because of her years of experience, the company stated that she could have been a valued employee; however, after she failed to improve her performance which was brought to her attention on several occasions and in a performance appraisal, they found no alternative but to terminate her.

Conclusion

The Human Rights Commission reviewed the findings of the investigation and found the complainant's allegation to be without merit. It was determined that the complainant had not been terminated because of her age.

Employment (Terms and Conditions)/Religion

Allegation

The complainant was employed on a part-time basis as a sales clerk. Initially she had advised the employer when she was hired that she was a member of the Seventh Day Adventist Church and therefore was required to observe the Sabbath (Friday evening sunset to Saturday evening sunset) and would not be able to work on Saturdays. She worked for two years with this arrangement until a new supervisor took over. The new manager objected to this arrangement and, according to the complainant, subsequently reduced the number of hours of work in an attempt to force her to resign. As a result of this pressure, the complainant filed a complaint with the Commission.

Investigation

The complaint was duly served on the respondent company who referred it to their solicitor. The respondent's legal counsel reviewed the situation and, prior to the completion of the investigation by the Commission, made proposals to resolve the matter.

Settlement

Through their counsel, the respondent proposed to guarantee the complainant a guaranteed minimum number of hours of work. The respondent also offered the complainant an opportunity of a transfer to another store should she so wish. The complainant, in consultation with the Commission and her Pastor, agreed to the proposals set forth by the respondent. She also advised that she had actually been receiving more work since she had filed the complaint. In view of the complainant's satisfaction with the proposal, the Commission accepted this case as settled.

Employment (Termination)/ Criminal Record

Allegation

The complainant contacted the Commission and filed a complaint alleging that he had been terminated from his employment on his first day on the job because of his criminal record.

Investigation

The investigation revealed that the complainant had applied for a job with a Winnipeg hotel. On the basis of his qualifications and experience he had been hired as a maintenance engineer and was told to report for work. He duly reported for work and initially commenced his duties. At the same time, management learned from a confidential source that the complainant had a criminal record with a history of theft and common assault.

The investigation confirmed that the complainant did indeed have a recent criminal record of this nature and in discussions with the respondent, was advised that the respondent had hired the complainant because of his employment qualifications and experience. The complainant had not advised the respondent of his criminal record at the time of the interview and the respondent explained that the nature of the position required the complainant to have access to keys for all security doors as well as master keys for all guest

rooms. The respondent maintained that honesty and trustworthiness were essential to the position, and that he had to terminate the complainant solely because of the type of criminal record that he possessed.

Conclusion

The Commission reviewed the investigation findings and determined that the incumbent of the position would have access to all of the rooms in the hotel.

The Commission decided that for this particular position the lack of this type of criminal record (assault and theft) was a bona fide occupational qualification and dismissed the complaint.

Employment (Hiring)/Height

Allegation

Several Winnipeg men filed complaints with the Manitoba Human Rights Commission against the City of Winnipeg Fire Department alleging discrimination because the Fire Department had a height and weight requirement. The complainants did not meet the Department's minimum requirement and were automatically rejected because of the policy.

Investigation

The investigation confirmed that the City did have a policy setting out height and weight requirements which prevented all applicants who did not meet the standards from being firefighters. These standards had been applied to the complainants and were the reason why the complainants had never been considered in terms of their individual qualifications. It was learned that the original intent of the policy was to eliminate applicants who were physically incapable of performing firefighting duties. In practice, however, the policy had not been followed at the time of amalgamation and there were a number of firefighters employed who were satisfactorily discharging the required duties who did not meet the height/weight standards. The policy was only applied to new recruits.

Settlement

In addition to the Commission's investigation, the City of Winnipeg also conducted a survey to determine the practice of a height/weight requirement in other cities across Canada. As a result of this study which showed that the majority of major cities across Canada had discontinued a specific height and weight requirement, and as a result of the Commission's investigation, the City rescinded the policy regarding height and weight. The City advised the Commission that they were preparing guidelines for assessing strength ability of all applicants rather than using an arbitrary height/weight requirement and that these new guidelines would be ready in early January, 1983. The complainants, on being advised of these results, indicated their satisfaction and advised that they would reapply once the new criteria was finalized.

Employment (Terms and Conditions)/Religion

Allegation

The complainant, a Jewish woman, filed a complaint alleging religious discrimination when her employer refused to let her take time off without pay to attend a religious holiday.

Investigation

The investigation revealed that the employer, a child care agency, had a policy which stated that persons who belonged to non-Christian religions were required to use annual vacation leave if they wished to celebrate religious holidays. Permission had been denied the complainant when she asked to take time off without pay to observe a religious holiday.

Settlement

This matter was resolved to the satisfaction of all parties. The respondent agreed to revise the policy requiring employees to take vacation leave for religious holidays. They established a new policy whereby the employee had a choice of using vacation leave or taking time off without pay to observe a religious holiday. The only requirement on the employee was that two weeks notice be given to allow for any necessary rescheduling to prevent a disruption of the service.

The employer apologized to the complainant for any inconvenience that might have been caused her.

Employment (Terms and Conditions)/Sex, Sexual Harassment

Allegation

The complainant filed a complaint with the Commission alleging that she had been forced to terminate her employment because she had been subjected to sexual harassment as a term and condition of her employment. Specifically, she alleged that her supervisor had forcibly shoved his hand between her legs on one occasion and on another occasion had insisted on rubbing his hands over her back and shoulders despite her protests.

Investigation

The investigation revealed that a definite pattern of sexual harassment existed in the company. The majority of the female employees confirmed that they had also been subjected to both physical and verbal harassment. Other female employees confirmed that the same supervisor had attempted to fondle their breasts and touch them while they were working. Complaints to management failed to resolve the matter as management took no action.

Settlement

When the respondent company was confronted with the results of the investigation they agreed to a settlement equivalent to one month's salary for the complainant in the amount of $1050.00 as damages. They also provided the Commission with assurances that this type of behaviour would not be tolerated in the future. The complainant expressed satisfaction with this settlement and the case was closed as settled.

Employment (Employment Practices)/Age

Allegation

The complainant, in a complaint to the Manitoba Human Rights Commission against a Manitoba school division, alleged that the school division refused to assign him as a substitute teacher to appointments longer than five days because of his age, and he maintained that younger substitute teachers regardless of experience or expertise were given longer assignments.

Investigation

The investigation revealed that the complainant was sixty-four years of age and had been a substitute teacher with the school division for at least eight years. The records of the division showed that he had been assigned on a regular basis although the number of days varied, and that, in fact, he had not been given assignments exceeding five consecutive teaching days in any given school. The procedure for assigning substitute teachers within the school division was simply for the teacher or principal to contact a substitute clerk and indicate the type of class, subject matter and if at all possible, the time that the teacher would be away from the classroom. The substitute clerk then checked a supply list to see who was available with the necessary background and if someone was available they contacted them. If no supply teacher was available then an outside substitute teacher was contacted and offered the assignment. Often principals or teachers ask for a substitute who taught in that class or school and was known to the teacher or the principal. The Commission's review of the references made by the various principals in the schools the complainant had taught in indicated that they had not recommended him for long term substitute work.

Conclusion

The Commission reviewed the investigation findings and determined that the investigation findings did not support the allegation that the complainant was refused long teaching assignments because of his age. The short term assignments were assigned by the substitute clerk on a random basis depending on the qualifications of the substitute teacher. The clerk had no knowledge of the substitute teachers on a personal basis. Longer term assignments were not assigned to this particular person because of his particular performance in the classroom. On this basis the Commission determined that the complaint was without merit and it was dismissed.

Employment (Terms and Conditions)/Sex, Sexual Harassment

Allegation

The complainant, a female who had been employed by a large Manitoba company in a northern Manitoba community, alleged that her employer had asked her to accompany him to an apartment, made her a gift of lingerie, pushed her on the bed and proceeded to remove her top clothing. She rejected these advances and asked to be left alone. However, the respondent continued to put his arms around her at work. As a result of being advised of the protection available under the Human Rights Commission, she filed a complaint.

Investigation

The complaint was served on the manager in question and the head office of the company. The investigation confirmed that, in fact, the complainant had gone to the apartment with the manager. However, he maintained that she had done so on a voluntary basis. He admitted that he had continually put his arms around her at the workplace. The company's head office responded very quickly on learning about the complaint and conducted their own investigation into the incident. The company immediately placed the manager on probation with a strong warning that further actions of this nature would be dealt with by transfer, demotion to Winnipeg or immediate dismissal.

Settlement

The complainant indicated her satisfaction with the response by the company's head office. In addition, the manager in question also advised the complainant that he would leave her alone in future. The Commission in reviewing this matter determined that the head office had acted responsibly in dealing with this situation as soon as they were aware of it. As a result the case was closed as settled on the basis of the company's action and the complainant's expressed satisfaction.

Employment (Terms and Conditions)/Religion

Allegation

The complainant, a member of the World Wide Church of God, was employed by a Manitoba manufacturer for almost five years. In the fall of the year, he had requested in writing a leave of absence from his employer for a week, in order to attend the Feast of the Tabernacles Conference in Regina. His requested leave was not authorized by the employer. His religious beliefs required him to attend the conference in order to remain a member of his church. He therefore attended the religious conference and was absent from work for a week. On returning to work he was advised that he would be suspended without pay for two days and informed that he was going to be assigned to a different area where he might be required to work a rotating shift which could include working Saturday considered by his church to be the Sabbath. The complainant maintained that he had no alternative but to resign because of this pressure that was place on him and filed a complaint with the Commission alleging discrimination because of religion.

Investigation

The investigation revealed that the complainant was a good worker and had a good employment record with his employer. In previous years he had requested and had received leave to attend the Feast of the Tabernacles Conference. Management took the position that the request was unreasonable because it was during a peak production period. No attempts had been made to accommodate the complainant's request for leave although accommodation had been made in previous years.

The investigation confirmed that the complainant had been punished for attending the Feast of the Tabernacles Conference with a two day suspension without pay.

With regard to the transfer and subsequent resignation it was determined that the manager responsible was not aware until after the complainant resigned that the complainant could not work after 4:30 p.m. Friday evenings. Because the complainant had made no effort to discuss this problem with his employer, the employer had no opportunity to consider if reasonable accommodation could have been made regarding the transfer.

Settlement

Two issues flowed from this complaint. The first was the denial of leave and the suspension that followed. The second was the transfer which caused a conflict for the complainant.

Concerning the first issue, the Commission negotiated a settlement whereby the complainant was reimbursed for the two days pay that had been withheld because no accommodation had been made when it was deemed to have been reasonable.

With respect to the second issue, the Commission determined that the complainant had not given his employer a fair opportunity to attempt to accommodate his religious belief and no further action was taken. The complainant agreed to the above courses of action and the complaint was closed as settled.

Housing/Marital Status, Family Status, Age and Without Reasonable Cause

Allegation

A common-law husband and his wife applied to rent a one-bedroom apartment in Winnipeg. At the time that they commenced their tenancy the woman was pregnant. It was their intention to give the child up for adoption. After the child was born, they decided to keep the child. The caretaker advised them that they could not remain in the building until the expiry of their lease because children were not allowed in the building. They were advised that they should sublet the suite and move out at the end of the next month.

The man filed a complaint with the Commission alleging that he was being discriminated against in the provision of housing accommodations and being made to terminate his lease because he and his wife had a child which was contrary to the policy of the landlord.

Investigation

The investigating officer contacted the caretakers who advised that the owners of the building had established the policy of not having children in the building, and that he and his wife were simply following that directive. They also confirmed that when the respondent had moved in they had advised that they were going to give up their child for adoption. When they kept it they then broke the landlord's policy and they were given notice.

Settlement

Based on the investigation findings, conciliation was commenced with the owner of the building with the result that the owner agreed to allow the complainant to continue their occupancy in the apartment. The respondent assured the Commission that he was aware of the legislation and would comply with it in future. The complainant was pleased that the matter could be resolved in this fashion, and that he and his family would not have to move. The complaint was closed as settled.

Housing/Race, Colour, Ethnic, National Origin

Allegation

The complainant (white) states that he and his family were denied rental accommodation because of his wife's colour (black). He alleged that he had been discriminated against on the basis of race, colour, family status, marital status, and without reasonable cause. The complainant stated that his credit rating and references were positive.

Investigation

The investigation revealed that the management company who leased the apartment had in fact checked out the complainant's credit rating and references. References revealed that the complainant had fabricated information concerning his employment stating he was employed when he was not. As well, the respondent checked with the complainant's previous landlord. Although this landlord gave a good reference, the respondent was suspicious as the reference was quite vague and noncommittal.

The respondent then determined that the complainant had not only falsified information about his employment, but had also given a false name. Consequently, when the respondent tried to do a credit check on the complainant, there was no such person. When the true identity of the individual was determined, a credit check described him as having, "a most unsuitable credit rating".

Conclusion

The respondent, the management company who rented out the apartments, made every effort to verify the complainant's references and credit rating. The complainant was found to be highly unsuitable because he was not only untruthful about his employment, he also had a poor credit rating.

When confronted with this, the complainant admitted to filing a dishonest complaint of race discrimination with the Commission. The Complainant stated that he and his wife were on welfare and he was afraid that he would be denied the accommodation because of this. He was informed that it is contrary to the Manitoba Human Rights legislation to refuse to rent to individuals because of their source of income (ie. welfare).

Had he been denied accommodation because of source of income his complaint would have been justified. This however was not the case. Because he filed a dishonest complaint, the Commission found it to be without merit and dismissed the complaint.

Housing/Source of Income, Without Reasonable Cause

Allegation

The complainant contacted the Commission's northern office and alleged that she had been refused rental accommodation of a one-bedroom suite for herself and her year old child after the landlord's representative determined that she was on welfare and that welfare would be paying the rent for the suite.

Investigation

Initially the landlord refused to talk with the investigating officer when he met to serve the complaint. In a follow-up meeting, however, the landlord admitted denying the complainant because she was on welfare. He indicated that he had rented apartments in the past to single female parents and he currently had unmarried persons occupying suites in his building. As well, he indicated that some of the unmarried couples were living together.

The landlord explained that part of the problem surrounding the complainant's application was the fact that he had had previous difficulties with a person with the same last name as the complainant. However, in discussions with the officer he recognized that all persons should be treated on an individual basis. As a result of the discussions with the officer, the respondent indicated that he was prepared to try and resolve the matter.

Settlement

The respondent, after discussing the matter with the officer, agreed to provide the complainant with a letter of apology regarding the incident and to include in the letter a written assurance to the complainant that in future all persons on welfare would be considered as prospective tenants provided they met the regular criteria expected of all tenants. In addition, the respondent also provided an assurance to the Commission that he would rent to persons on welfare provided they could meet the general requirements such as positive rental history and character references which are asked of all applicants. The complainant advised that she had secured alternate housing in the interim and was not interested in securing accommodation from the respondent. She indicated that she was satisfied with the resolution. On this basis the complaint was settled.

Housing/Source of Income, Marital Status, Family Status, Race and Without Reasonable Cause

Allegation

The complainant, a Native person and a single parent, filed a complaint with the Manitoba Human Rights Commission after she had been denied housing accommodation. After noticing an advertisement in a Manitoba newspaper listing a house for rent, she contacted the realty company and was given a key so that she could view the house. She viewed the house and on her return to the realty company's office she indicated she would like to rent the house and filled out an application. At that time she advised the realty company representative that she was a recipient of provincial welfare. She returned the following day to the realty company only to be told that her application had been rejected because she was unemployed and they preferred to rent to working people. She noticed that the same house continued to be listed in the local paper. A month later she then returned to the realty company and spoke to the same representative, indicating that she was still interested in the house. Again, she was told that she could not rent the house because she was unemployed. She subsequently filed a complaint with the Commission.

Investigation

An investigation was commenced into the complaint and a copy of her application for rental form was obtained by the officer. It was noted that the words "rejected because prospective tenant was not employed" were written on the form. The respondent, however, indicated that the complainant had been rejected because she had failed to provide sufficient information about her income and when she had been asked how she would pay the rent, she had indicated that her welfare would pay a portion of it and she would pay the rest "somehow". The landlord also indicated that they recalled the complainant as a previous tenant in another property with whom they had had problems collecting rent, and that when she had left those premises, they had been in a state of disrepair. Based on this personal experience with the complainant, they maintained that she was not a suitable tenant. In addition, the respondent indicated that in checking her credit references, he found that the complainant was frequently in arrears. The respondent also advised that her current landlord had indicated that they had experienced problems with the complainant as a tenant.

The respondent demonstrated to the Commission that a number of tenants to whom they were currently renting were Native people and Native single parent females who were also on provincial assistance. These persons confirmed that the landlord was aware at the time that they had made application to rent housing accommodations that they were on welfare assistance, and they indicated they had not had any problems with the landlord. Individual checks with the various credit references supplied by the respondent confirmed that the complainant had a poor credit rating, was frequently in arrears. These sources confirmed that they had advised the respondent of these facts when he had inquired.

Conclusion

Based on the above information, the Commission concluded that the complainant had not been discriminated against when she was denied housing accommodations, but rather that the landlord had a valid reason for refusing to rent to her. As a result the Commission dismissed the complaint as being without merit.

Services

Services/Religion

Allegation

The complaint was filed with the Commission against a local restaurant chain which had displayed notices in their restaurant indicating that if a customer was to bring "this week's church bulletin" to the restaurant they would receive a free dessert for the entire family. The complainant, a member of the Jewish faith alleged that the advertisement was worded in a fashion to discriminate in a subtle way against persons of Jewish, Islamic or other religions who do not attend church on Sundays or whose church does not issue church bulletins. He subsequently filed a complaint against the restaurant chain alleging discrimination on the basis of religion.

Investigation

The complaint was investigated by the Commission staff and it was determined that the restaurant had in fact displayed an advertisement as described by the complaint. The manager indicated that he had some concerns about it when it was first implemented and was aware of some telephone complaints that had been received by other chain outlets regarding the wording of the notice.

The manager indicated it was not the practice of the chain to discriminate in any manner and he stated that the chain employs persons of all races and creeds. He also advised that in his opinion discrimination was a bad business procedure. The manager indicated that while the advertisement was in effect, it was the general instruction to all management staff that any person asking for a dessert should be provided with a free dessert regardless of whether they had a church bulletin.

Settlement

The management recognized the discriminatory wording of the advertisement and indicated that they wished to comply fully with *The Human Rights Act*. In order to rectify the issue the manager agreed to provide a declaration of compliance to the Commission, provide the complainant with a written apology and publish a retraction in the print media to dispel any public concerns that might exist with regard to the policy of the chain. This was subsequently run in local Winnipeg papers and the complainant expressed his satisfaction with the resolution. The complaint was closed as settled.

Services/Age

Allegation

An international firm operating in Manitoba, in Ontario and many parts of the United States had advertised two free holidays at a resort in Manitoba. The advertisement stated that only couples would be granted the holidays after payment of a fee of $20.00 to cover administration costs. The respondent denied this opportunity to a woman who was aged 70 and her elderly friend.

Investigation

The investigation revealed that the complainant had followed the rules of the advertisement, and had forwarded the necessary fee to the respondent firm. Upon completing this part of the application, the respondent firm had returned a form to the complainant questioning her age which is contrary to *The Manitoba Human Rights Act*.

The respondent firm stated that because it offered a free holiday that the offer was not a service. At the same time the investigation revealed that this was a promotional device designed to attract the public at large. As such, a service was available to the public. Further investigation revealed that a limitation on the basis of age existed and had been applied to the complainant resulting in the denial.

Settlement

The respondent firm complied with the Act and provided a free paid holiday for the complainant and her friend.

The complainant expressed her appreciation for the action taken on her behalf by the Manitoba Human Rights Commision and the action taken by the respondent.

The respondent, by their action, declared their compliance with *The Manitoba Human Rights Act*, and agreed to desist from making a distinction on the basis of age in future promotion campaigns.

It should be noted that the promotion campaign was designed to demonstrate the services available at the resort, with the hope to sell hotel-type condominium apartments.

Services/Sex

Allegation

The complainant contacted the Manitoba Human Rights Commission to complain about the policy of a motel in Stony Mountain which refused to cash cheques of women visiting at the prison. She advised that she had stayed at the hotel on numerous occasions and had paid for her accomodations by cheque. Despite the fact that she was known at the motel, the motel refused to accept her cheque because of a change of policy.

Investigation

This complaint was investigated and the complaint form was served on the owner of the motel. The respondent proprietor confirmed that he had posted a memo behind the bar around the time stated in the complaint form stating that cheques were not accepted from women visiting the penitentiary. He advised that the memo did not remain posted for any length of time as it was really a means by which he informed his staff of the policy. The respondent indicated that a large number of people, primarily women, who were visiting inmates at the penitentiary stayed at his motel and that he had received approximately 100 NSF cheques in the first six months of the year.

The respondent indicated that in reference to the complainant, she herself had paid for accommodations with an NSF cheque the visit prior to the posting of the policy. On her last visit, the one mentioned in the complaint, he had contacted her with regard to the NSF cheque only to have her deny to him that the cheque was not good. He stated that it was not until he had shown her the returned cheque that she admitted that it was hers. The respondent advised that he had told the complainant that she would have to honour her cheque which she subsequently did.

Settlement

The investigating officer advised the proprietor that a policy designed to prevent only women from paying for their accommodations by cheque was discriminatory. The respondent indicated that he could appreciate this, and he agreed to remove the discriminatory policy immediately. He replaced the discriminatory policy with a new policy which applied to all customers regardless of sex indicating that personal cheques would not be accepted for any accommodations. At the same time he provided the Commission with a letter of assurance indicating that his policy was to accept payment in

the form of cash, travellers cheques or credit cards only, and that this policy applied to all persons. In view of the complainant's behaviour in this particular incident, the Commission accepted the change of policy and the letter of assurance as a full settlement to this complaint.

Section 13

Physical Handicap

Allegation

The complainant, a person who is dependent on a wheelchair, contacted the Commission to complain that the entrance to the Concert Hall via the underground passage from the parkade on Princess Street was not accessible to wheelchairs. Her complaint specifically was that there were no signs to alert the wheelchair public that assistance was required at the basic entrance of the Concert Hall due to the steep stairway at the basement entrance.

Investigation and Resolution

This concern was examined under the spirit of the Act provision in Section 13. The investigating officer contacted the City of Winnipeg representatives and made them aware of the practical problems encountered by members of the wheelchair public.

The City recognized the difficulty that existed and agreed to post appropriate signs to alert wheelchair traffic that they should enter the Concert Hall by another route. As a result, three different signs were posted at the main entrance, the elevator entrance and at the City Hall entrance to the underground passageway.

The complainant indicated her satisfaction and appreciation for the intervention and this particular matter was closed as settled. At the same time the officer, in closing the case, pointed out to the City the need for adequate facilities for members of the wheelchair public.

Race, Colour

Allegation

The mother of an eight year old who attended a Manitoba public school contacted the Commission because of a concern over an incident that had happened in class. She explained that her child's teacher had made an issue of the fact that the child's father is black and she is white. The mother explained that the teacher had been discussing a story in one of the readers and the teacher had asked the child to tell the class about his parents. The child advised the teacher that he did not wish to but the teacher went on to explain to the class that the father was black and the mother was white. The mother stated that she was extremely upset about this incident because she felt that her child did not look black and there was absolutely no need for the issue of race to be brought up.

Investigation and Resolution

The Commission's review of the matter revealed that it fell under Section 13 of the Act — the spirit of the Act section. The mother informed the investigating officer that she had contacted the principal to relay her concerns and as a result of these discussions the principal had agreed to move her child out of the offending teacher's class. At the same time the mother was insistent that the Commission become involved.

The investigating officer contacted the principal and explained the concern. A meeting was arranged between the officer, the principal and the teacher in question. The teacher explained the situation had developed as a result of a discussion that had taken place in class one day. The class had been discussing the meaning of pictures and one of the pictures showed black and white people. The teacher in attempting to reinforce positive discussion had turned to the complainant's child and asked about his parents. She explained that she thought it was common knowledge in the class that the child came from an interracial family. The teacher stressed that she was attempting to develop and foster positive attitudes in the children with regard to peoples from different races and cultures. She indicated that the young boy had not appeared upset and she was not aware that she had caused him distress until after the mother contacted the principal. She indicated that she regretted the incident but assured the officer there was absolutely no intent to cause the boy upset. Both she and the principal were concerned about the reaction of the parents.

The officer met with the parents and in a lengthy discussion with them regarding the situation it became apparent that the parents were concerned because they felt that their child had been needlessly exposed to a situation which should not have occurred. They felt that they had experienced difficulties in the past and that it was totally unnecessary for their son to be exposed to it in class.

As a result of all the discussions with the officer, however, the officer was able to diffuse the concerns of both the school and the parents. The principal agreed to transfer the child to another class, alleviating the parents immediate concerns.

Both the school representatives and the parents were able to examine the issue in a more detached light with the result that the matter was concluded without it being escalated out of proportion.

Taxi Cab Service and the Physically Disabled

During the year the Commission became aware of the problems faced by disabled persons, especially those in wheelchairs who were denied taxi services in the province. Specifically, these concerns involved the inability of some companies to respond to the needs of disabled customers with the result that a public service was being limited or in some cases actually denied to a section of the public.

The Commission decided that the most appropriate format to resolve these community concerns was to meet with the organizations responsible for taxi cab services in Manitoba.

To this end, a series of productive meetings were held with the Taxi Cab Board of Manitoba and the Taxi Cab Owners Association of Winnipeg. On the one hand, it was recognized that disabled persons often require specific or additional assistance from the taxi cab companies/operators. At the same time, taxi cab owners/operators and some drivers experience very real problems in terms of meeting these specific needs, such as the physical limitations of the taxi cab drivers (ie. unable to lift, bend or stoop), reduced trunk space with the advent of smaller cars or because of the conversion to propane power, as well as traffic by-laws which prevent cab drivers from stopping to assist disabled customers in some business areas during peak traffic periods.

At year's end an agreement was reached with the Taxi Cab Board of Manitoba, the Taxi Cab Owners Association of Winnipeg and the Human Rights Commission.

In recognition of the existing concerns it was agreed that the Taxi Cab Board would prepare a list of drivers who could provide services to handicapped customers without endangering their own health. An information pamphlet will be developed jointly to assist drivers in handling wheelchairs. These pamphlets will be distributed throughout Manitoba. In addition, the working definition of handicapped persons will be broadened to include persons who suffer from a disability and the infirmed.

At year end a joint press release was planned between the parties outlining the specifics of the program which will ensure better services for the disabled community.

The Commission views this cooperative effort as an example of what can be accomplished through positive community effort.

The Commissioners

Dale Gibson — Chairperson

Born and educated in Winnipeg, Dale Gibson has been a professor of law at the University of Manitoba since 1959. He has written extensively on a variety of legal topics, including many aspects of human rights, and is a frequent commentator about constitutional affairs on radio and television. He served as a member of the Manitoba Law Reform Commission for several years, and has acted as constitutional consultant to both the federal and provincial governments.

Lawrie Cherniack — Vice Chairperson

Lawrie Cherniack has practiced law in Winnipeg since 1976. Prior to that time he was a Winnipeg City Councillor, community organizer and teacher.

Denis Allard

Denis Allard has been a union representative for twenty years with the Manitoba Food and Commercial Workers Local 832, Winnipeg. He has resided in St. Boniface, Manitoba for thirty years.

Regina Bueno

Regina Bueno is an L.P.N. and is employed as an Audio-Visual Technician at the University of Manitoba. She is on the Board of Directors of the Women's Culture Educational Centre and Harmony Funds Incorporated. Regina is involved in many other organizations concerned with human rights, is a community organizer and is committed to the principles of self-sufficiency.

Marek Debicki

Marek Debicki is a member of several civil rights organizations. He teaches Civil Rights at the University of Manitoba.

Unni Hordern

Unni Hordern is a physiotherapist and clinical instructor at the Brandon General Hospital. She has lived in Brandon since 1971. She has been a member of the boards of The Childrens Aid Society and Westbran Work Activity Program. She is very active in The Canadian Physiotherapy Association.

John Lane

John Lane is a resident of Winnipeg. Trained as an engineer, he has been employed in a variety of fields and is currently the Executive Director of the Canadian Paraplegic Association (Manitoba Division). He is physically disabled with quadriplegia due to a spinal cord injury sustained in 1968.

Maureen Miller

Maureen Miller is a communications officer with the Canadian Union of Public Employees, Local 500. She holds a Bachelor of Arts degree from the University of Winnipeg and a Certificate of Education from the University of Manitoba. Ms. Miller is a vice-president of the Canadian Association of Labour Media and is active in equal rights committees of CUPE and the Manitoba Federation of Labour.

Jill Oliver

Jill Oliver came to Canada from England in 1957. She resided in Winnipeg from 1962 to 1969 when she moved to Prince Edward Island. She returned to Winnipeg in 1972 to study Political Science at the University of Winnipeg. She received her Law degree from the University of Manitoba in 1977 and was called to the Manitoba Bar in 1978. Jill Oliver has practiced law in Winnipeg since 1978. She has been active in the women's movement since 1973 and is currently President of Family Services of Winnipeg Inc.

Maureen Penner

Maureen Penner of Brandon, is an active member of the Manitoba Metis Federation. Her involvement has been at the community and regional level in the area of culture, education, employment, alcoholism and communications. She is past Vice-President of the Dauphin Region and past Co-ordinator of Provincial Cultural Events with MMF. She has also worked in the area of education and prevention with the Alcoholism Foundation.

Sally Shrofel

Sally Shrofel is a graduate of the University of Manitoba where she achieved a B.A., B.Ed., and M.A. She taught at Morse Place and Chief Peguis junior high schools in Winnipeg before graduating from the University of Toronto with a Ph.D. in Theoretical Linguistics. As well as her professional work as a Linguist, Dr. Shrofel is active in community affairs being past chairperson of the Manitoba Action Committee on the Status of Women, current chairperson of Women of Manitoba and of the Pension Reform Committee of the Age and Opportunity Bureau and a panel member of the United Way.

Frank Whitehead

Frank Whitehead is a resident of The Pas Reserve. He is President of the Otineka Development Corporation (shopping centre) and a Board Member for I.R. Corporation (trailer court). He is currently employed as the Project Manager for The Pas Work Activity Project, Human Development Program. He has been active in community development at the volunteer level, and as a member of The Pas Reserve Volunteer Fire Department.

Claudia Wright

Claudia Wright, B.A., M.A., Ph.D. is a professor of political science at the University of Winnipeg. She is Associate Dean of Arts and Science, Personnel. Claudia Wright is active in many organizations that are involved in human rights issues. She also has academic interests that compliment her commitment to civic education and participation.

Statistical Highlights

1. The total number of complaints handled by the Commission has increased 36.4% since 1981.
2. Employment remains the single most significant area of discrimination. Over half of the complaints handled by the Commission are employment related.
3. There has been an increase in complaints on all grounds covered by *The Human Rights Act* except on the ground of marital status which figure remains the same as 1981.
4. More complaints have been received on the grounds of sex and race than any other category.
5. It is interesting to note that in the first year of including mental handicap as a prohibited ground of discrimination, the Commission has already dealt with 14 complaints.

TABLE 1

Total Intake Load Received 1978 — 1982

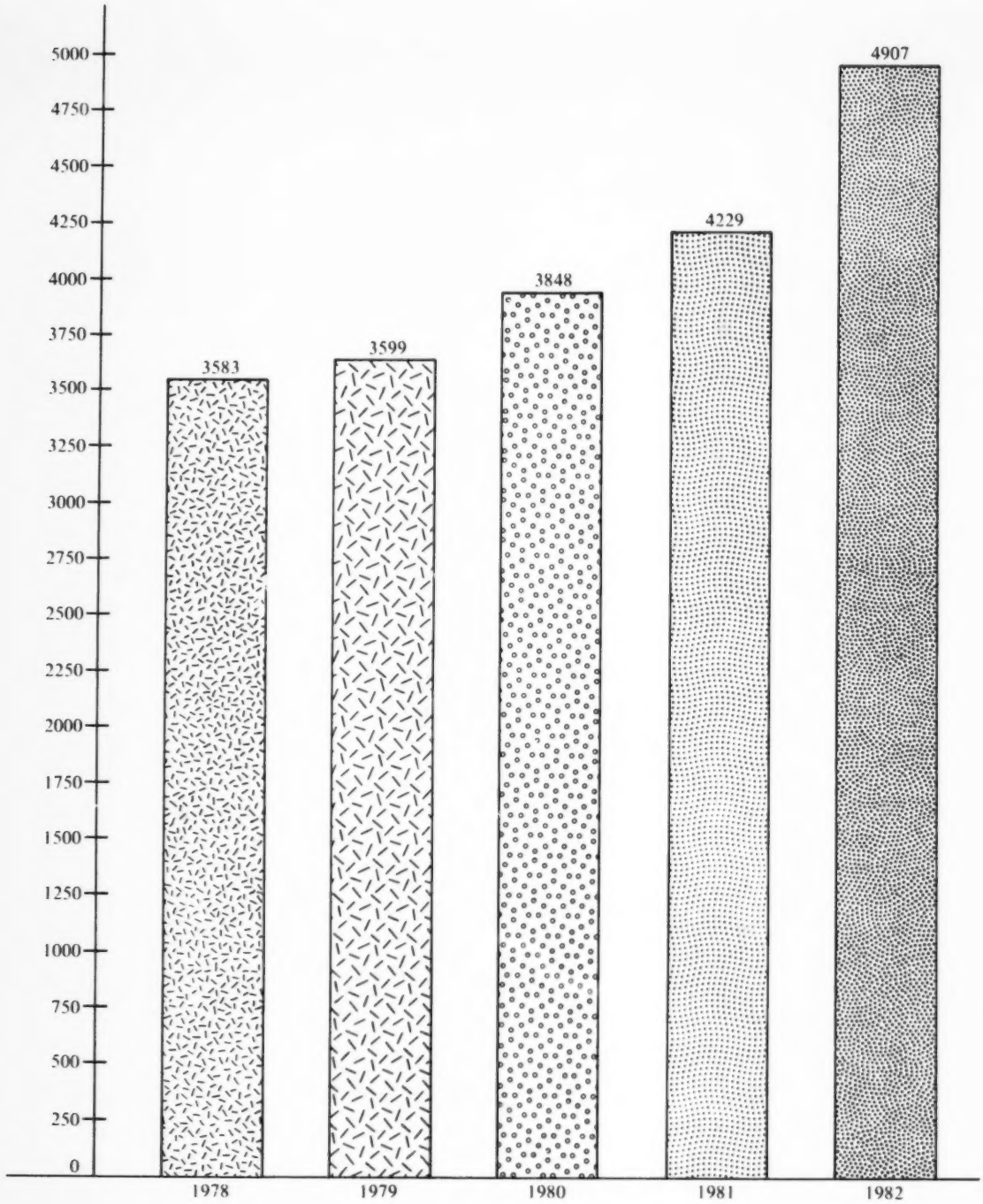
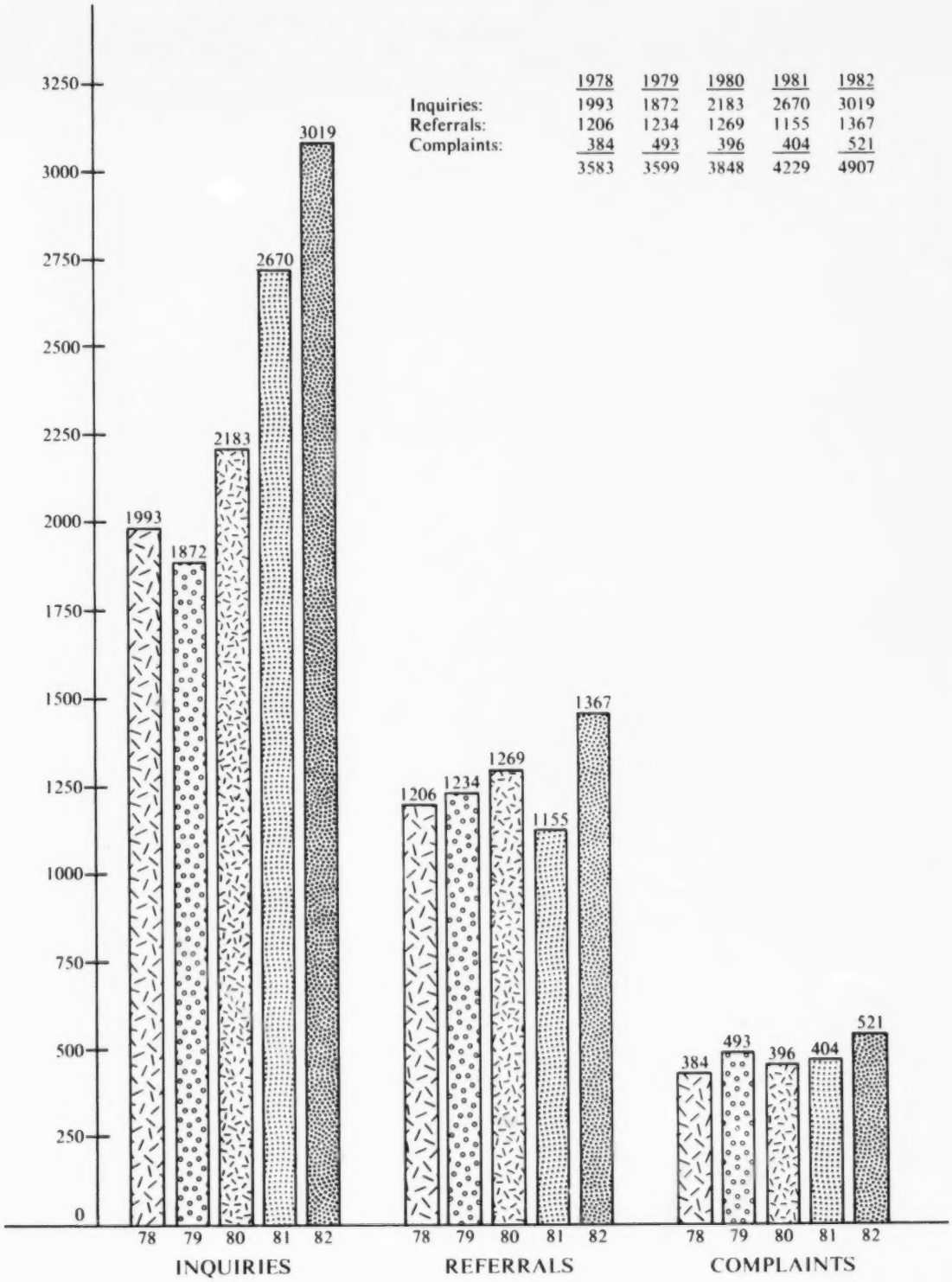


TABLE 2

Combined Intake Activities 1978 — 1982



	1978	1979	1980	1981	1982
Inquiries:	1993	1872	2183	2670	3019
Referrals:	1206	1234	1269	1155	1367
Complaints:	384	493	396	404	521
	3583	3599	3848	4229	4907

Percentage Breakdown of Cases by Statutory Categories — 1982

TABLE 3

Section	No. of Cases	Percentage
Notices	8	1.53%
Services	76	14.59%
Housing	88	16.89%
Property	0	0%
Employment	285	54.70%
Employment Advertising	9	1.73%
Pre-employment Inquiries	29	5.57%
Employment Agencies	0	0%
Contracts	1	.19%
Reprisal	1	.19%
Section 13 (Informal)	24	4.61%

Percentage Breakdown of Cases Received by Grounds of Complaint — 1982

Ground	Number	Percentage
Race/Colour	160	19.21%
Sex (Male/Female)	150	18.01%
Marital Status	63	7.56%
Family Status	89	10.68%
Age	101	12.13%
Source of Income	27	3.25%
Religion	13	1.56%
Political Belief	6	.72%
Reasonable Cause	41	4.92%
Physical Handicap	49	5.88%
Mental Handicap	14	1.68%
Nationality & Ethnic/ National Origin	94	11.28%
Other	26	3.12%

TABLE 4

Breakdown of Cases by Statutory Categories:

(Percentage of total cases received in 1982)

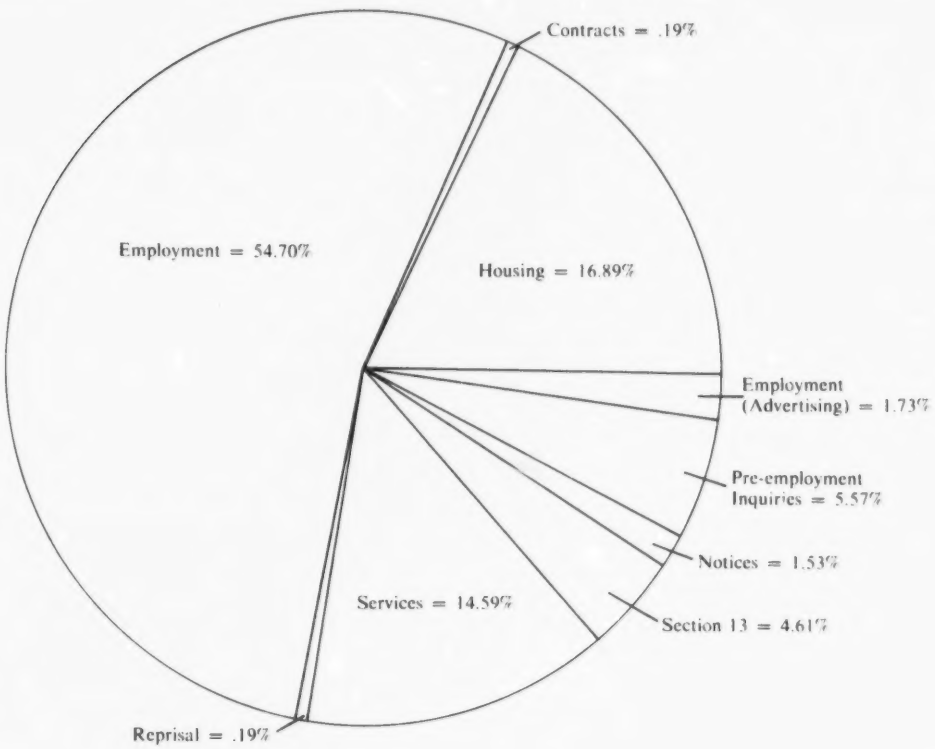


TABLE 5

Breakdown of Cases Received by Statutory Categories — 1981, 1982

(Figures represent number of cases)

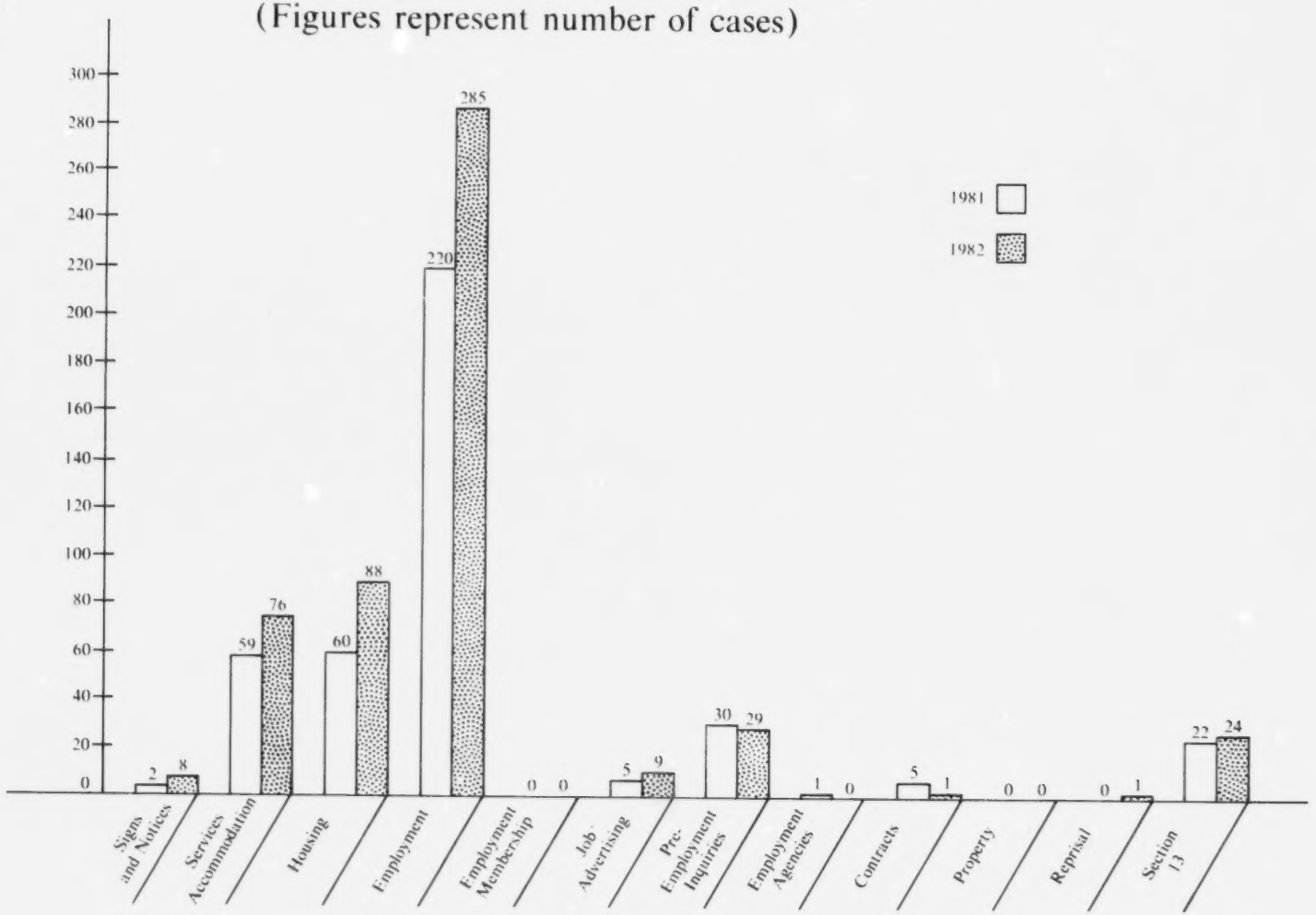


TABLE 6

Breakdown of Cases Received by Grounds of Complaint:

(Percentage of the total grounds of complaints received in 1982)

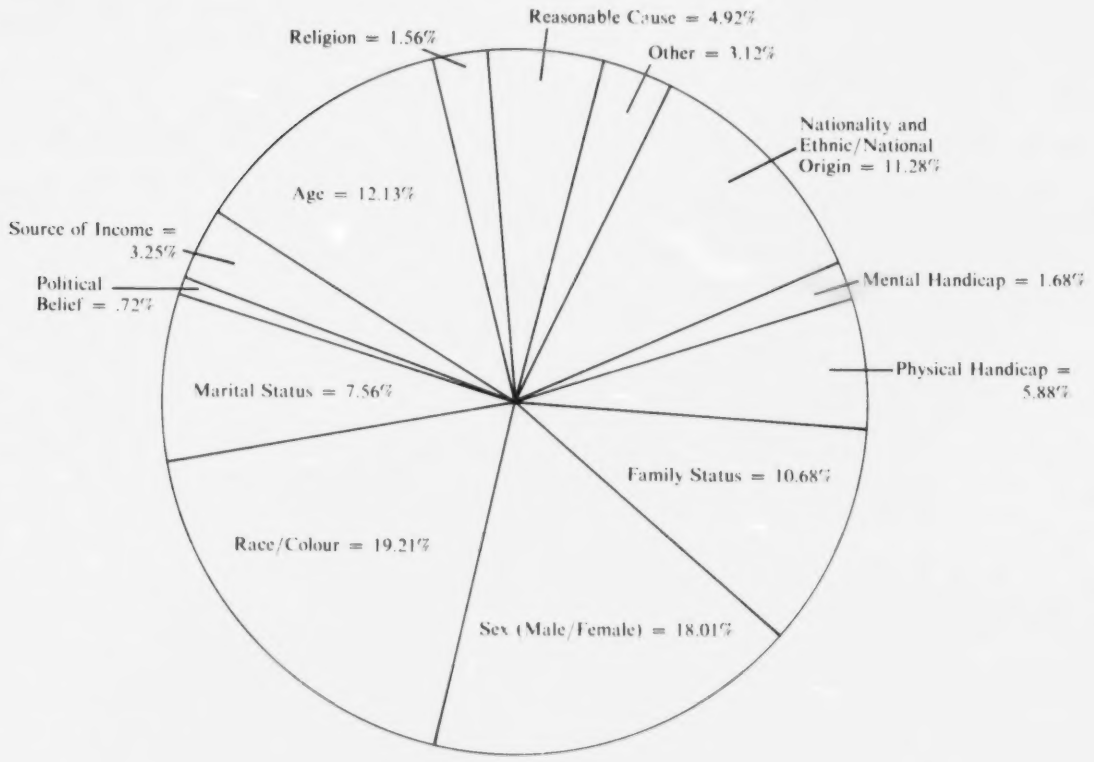


TABLE 7

Breakdown of Cases Received by Grounds of Complaint — 1981, 1982

(Figures represent number of cases involving these designated grounds)

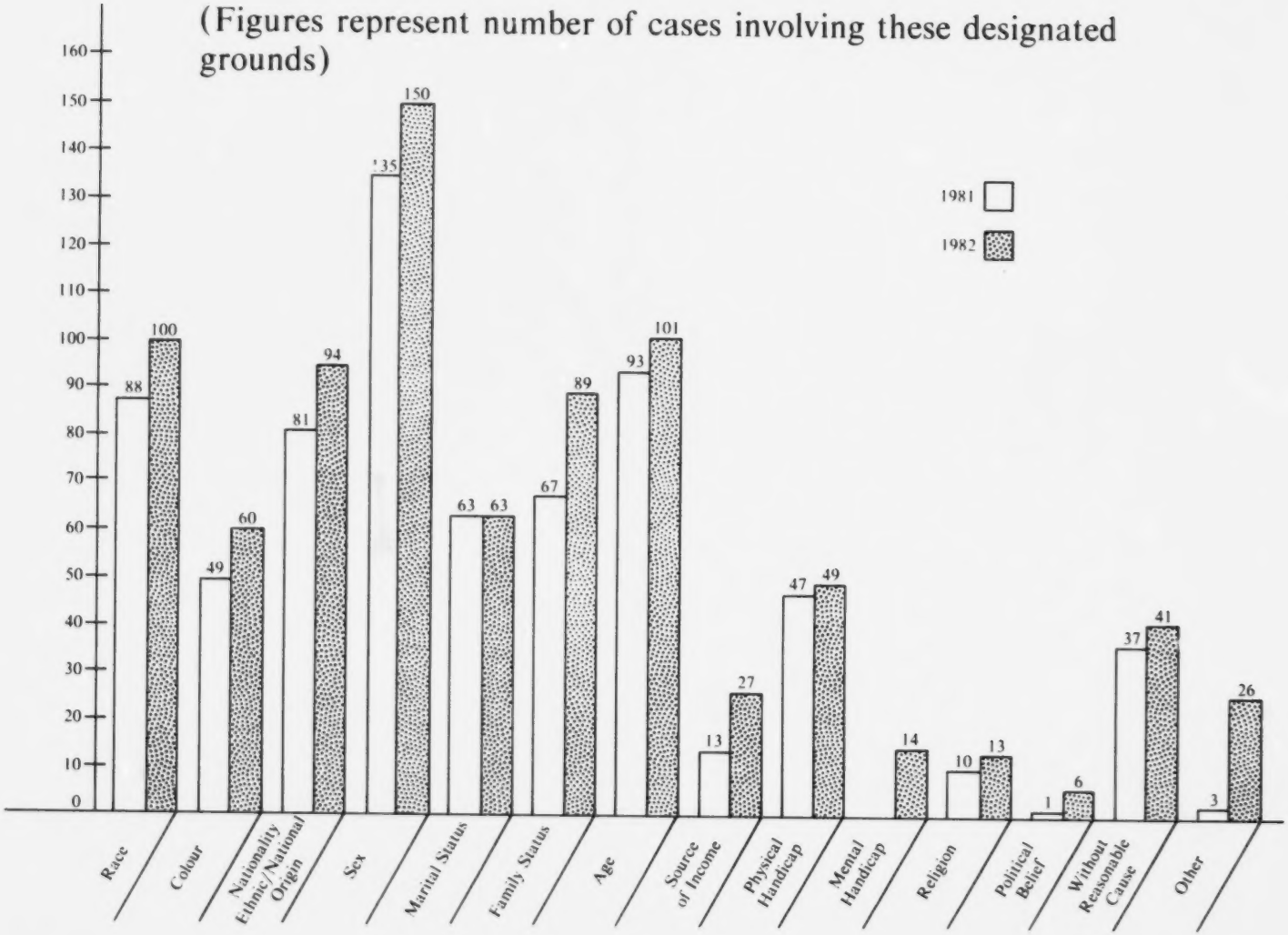


TABLE 8

Manitoba Human Rights Commission 1982 Year End Report

Breakdown of Cases by Statutory Categories

	Race	Nationality	Religion	Colour	Sex		Marital Status	Family Status	Age	Ethnic, National Origin	Source of Income	Political Belief	Reasonable Cause	Physical Handicap	Mental Handicap	Other	TOTAL
					Male	Female											
Notices	3	1		1		5			1	2							13
Services	19	2	2	10	5	10	7	4	13	15	2		13	11	1	2	116
Housing	19	2	1	14	3	6	18	33	12	11	25		19	1	1		165
Property																	
Employment	46	14	9	30	17	82	17	37	47	41		5	8	29	9	17	408
Membership																	
Advertising			1			5			3								9
Pre-employment Inquiries	1			2	7	7	18	13	24			1	1	6	1	2	83
Employment Agencies																	
Contracts	1			1						1							3
Reprisal																1	1
Section 13	11	2		2	2	1	3	2	1	3				2	2	4	35
TOTAL	100	21	13	60	34	116	63	89	101	73	27	6	41	49	14	26	833

**This is an inflated figure as the total cases for 1982 were 521. The reason the figure is higher here is that many cases have more than one ground of discrimination*

TOTAL CASELOAD = 521

TABLE 9

Manitoba Human Rights Commission

1982 Year End Caseload Report

	Brought Forward	New Cases	Settled	Dismissed	Un-resolved	Not Pursued	Closed by Board/ Prosecution	Un-disposed
Notices	2	8	3			4		3
Services	20	76	16	11		27		42
Housing	12	88	12	8		45	1	34
Property	1		1					0
Employment	70	285	42	53		89	3	168
Membership								
Advertising	2	9	6			3		2
Pre-employment Inquiries	3	29	17	2		2		11
Employment Agencies	1							1
Contracts	2	1	1			2		0
Reprisal		1						1
Section 13	7	24	10	1	1	7		12
TOTAL	120	521	108	75	1	179	4	274

TABLE 10

Distribution of Complaints Received

By Geographical Location

Brandon Region (Winnipeg Office)

Brandon	19
Dauphin	3
La Riviere	1
Swan River	3
	26

The Pas Office

The Pas	9
Churchill	2
Cranberry Portage	1
Cullaton Lake, NWT	2
Lynn Lake	2
Moose Lake	1
Thompson	3
Wabowden	1
	21

Winnipeg Office

Winnipeg	444
Altona	1
Arborg	1
Ashern	1
Bissett	1
Carman	1
East St. Paul	1
Elm Creek	1
Fairford	1
Fisher Branch	1
Gypsumville	1
Manigotogan	1
Morris	1
Portage la Prairie	4
Selkirk	8
St. Anne's	1
Steinbach	3
Stony Mountain	1
Winkler	1
	474
TOTAL	521

CHAPTER H175

THE HUMAN RIGHTS ACT.

(Assented to June 14, 1974)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Manitoba, enacts as follows:

Definitions.

1 In this Act

(a) "blind person" means a person who

(i) is registered as a blind person with The Canadian National Institute for the Blind, a corporation incorporated under the Canada Corporations Act and continued under the Canada Business Corporations Act, or

(ii) is in receipt of an allowance on account of blindness under The Blind Persons Allowances Act or the Blind Persons Act (Canada), or

(iii) having been in receipt of an allowance on account of blindness under the Acts mentioned in sub-clause (ii), is in receipt of a pension under the Old Age Security Act (Canada) and is still blind within the meaning of the Acts mentioned in sub-clause (ii) and regulations made thereunder;

En. S.M. 1982, c. 23, s. 1.

(a.1) "commercial unit" means any building, or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office or meeting room in any building or other structure or in a part thereof;

En. S.M. 1982, c. 23, s. 1.

(b) "Commission" means the Manitoba Human Rights Commission;

(b.1) "dog guide" means a dog which serves as a dog guide or leader for a blind person and has been especially trained for the purpose;

En. S.M. 1982, c. 23, s. 2.

(c) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(d) "employment agency" includes a person who undertakes with or without compensation to procure employees and a person who undertakes with or without compensation to procure employment for persons;

(d.1) "family status" for the purpose of this Act includes the status of an unmarried person or parent, a widow or widower or that of a person who is divorced or separated or the status of the children, dependants, or members of the family of a person;

En. S.M. 1976, c. 48, s. 1.

(e) "housing accommodation" means any place of dwelling, except a place of dwelling that is part of a building in which the owner or his family or both, reside where the occupants of the place of dwelling are required to share

(i) a bathroom or kitchen facility, or

(ii) a common entrance, except in a duplex, apartment building or condominium,

with the owner of the dwelling or his family or both;

En. S.M. 1978, c. 43, s. 1.

(f) "minister" means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;

(g) "national origin" includes the national origin of an ancestor;

(h) "occupational association" means any organization, other than a trade union or employers' organization, in which membership is a prerequisite or from which licensing or certification is necessary, to carrying on a trade, occupation or profession;

(i) "person" in addition to the extended meaning given it by The Interpretation Act, includes an employment agency, and employers' organization, a trade union, an occupational association, and a class of persons;

(i.1) "physical or mental handicap" means a disability, infirmity, malformation or disfigurement whether of a physical or mental nature that is caused by injury, birth defect or illness and includes but is not limited to epilepsy, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a dog guide, wheelchair or other remedial appliance or device;

En. S.M. 1982, c. 23, s. 3.

(j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers;

(k) "wages" includes pay, salary, remuneration, lost benefits, out-of-pocket expenses and interest thereon;

(l) "white cane" means a cane or walking stick all of which or the major portion of which is white.

En. S.M. 1982, c. 23, s. 4.

S.M. 1974, c. 65, s. 1; Am. S.M. 1976, c. 48, s. 1; S.M. 1977, c. 46, s. 1; S.M. 1978, c. 43, s. 1; S.M. 1982, c. 23, ss. 1-4.

PART I

PROHIBITED DISCRIMINATORY PRACTICES

Discrimination prohibited in notices, signs, etc.

2(1) No person shall

(a) publish, display, transmit or broadcast, or cause to be published, displayed, transmitted or broadcast; or

(b) permit to be published, displayed, broadcast or transmitted to the public, on lands or premises, in a newspaper, through television or radio or telephone, or by means of any other medium which he owns or controls;

any notice, sign, symbol, emblem or other representation

(c) indicating discrimination or intention to discriminate against a person; or

(d) exposing or tending to expose a person to hatred;

because of the race, nationality, religion, colour, sex, marital status, physical or mental handicap, age, source of income, family status, ethnic or national origin of that person.

Am. S.M. 1976, c. 48, s. 2; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 5.

Exception as to matters of opinion.

2(2) Nothing in subsection (1) shall be deemed to interfere with the free expression of opinion upon any subject.

Exception.

2(3) Subsection (1) does not apply to the display of a notice, sign, symbol, emblem or other representation displayed to identify facilities customarily used by one sex.

S.M. 1974, c. 65, s. 2; Am. S.M. 1976, c. 48, s. 2; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 5.

Discrimination prohibited in accommodation, service, etc.

3(1) No person shall

(a) deny to any person or class of persons any accommodation, service, facility, goods, right, licence or privilege available to the public or to a section to the public; or

(b) discriminate against any person or class of persons with respect to any accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public;

unless reasonable cause exists for the denial or discrimination.

En. S.M. 1982, c. 23, s. 6.

Things that do not constitute reasonable cause.

3(2) For the purposes of subsection (1), the race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, or ethnic or national origin of a person does not constitute reasonable cause unless the Commission is satisfied after considering the facts of the particular situation that a denial or discrimination on such grounds is justified in that particular situation.

En. S.M. 1982, c. 23, s. 6.

Definition.

3(3) For the purposes of subsection (1), the expression "accommodation, service, facility, goods, right, licence or privilege available to the public or to a section of the public" includes, without restricting the generality of that expression, any benefit provided and any activity or undertaking carried out, by Her Majesty in the right of Manitoba, the Government of Manitoba, any municipal corporation or educational institution in Manitoba, any board or commission created by or subject in this regard to the laws of Manitoba, or by any of their agents or servants.

En. S.M. 1982, c. 23, s. 6.

Exception for person under the age of majority.

3(4) Nothing in subsection (1) prevents the denial or refusal of any accommodation, service, facility, goods, right, licence or privilege to a person who has not attained the age of majority if the denial or refusal is in accordance with any law or regulation in force in Manitoba.

En. S.M. 1982, c. 23, s. 6.

Discrimination prohibited in occupancy of commercial unit or housing accommodation.

4(1) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

(a) deny to any person or any member of his family, the right to occupancy of any commercial unit or any housing accommodation; or

(b) discriminate against any person or any member of his family with respect to any term or condition of occupancy of any commercial unit or housing accommodation,

unless reasonable cause exists for the denial or discrimination.

En. S.M. 1976, c. 48, s. 4.

Things that do not constitute reasonable cause.

4(2) For the purposes of subsection (1), the race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, family status, ethnic or national origin, or the source of income of a person does not constitute reasonable cause.

En. S.M. 1976, c. 48, s. 4; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 7.

Accommodation may be restricted on basis of sex.

4(3) Notwithstanding subsections (1) and (2), occupancy of all the housing accommodation in a building, except that of the owner or his family, may be restricted to individuals of the same sex.

En. S.M. 1976, c. 48, s. 4.

Preference for elderly persons.

4(4) Nothing in subsection (1) prevents a person from giving preference to elderly persons of housing accommodation in any building that is designed or used primarily for elderly persons.

En. S.M. 1976, c. 48, s. 4.
En. S.M. 1976, c. 48, s. 4; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 7.

Discrimination prohibited in the purchase of property.

5 No person shall

(a) deny to any person the opportunity to purchase any commercial unit or housing accommodation that is advertised or in any way represented as being available for sale; or

(b) deny to any person the opportunity to purchase or otherwise acquire land or an interest in land that is advertised or in any way represented as being available for sale; or

(c) discriminate against any person with respect to any term or condition of the purchase or other acquisition of any commercial unit, housing accommodation, land or interest in land that is advertised or in any way represented as being available for sale;

because of the race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin of that person.

S.M. 1974, c. 65, s. 5; Am. S.M. 1976, c. 48, s. 5; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 8.

Discrimination prohibited in employment.

6(1) Every person has the right of equality of opportunity based upon bona fide qualifications in respect of his occupation or employment or in respect of training for employment or in respect of an intended occupation, employment, advancement or promotion, and in respect of his membership or intended membership in a trade union, employers' organization or occupational association; and, without limiting the generality of the foregoing

(a) no employer or person acting on behalf of an employer, shall refuse to employ, or to continue to employ or to train the person for employment or to advance or promote that person, or discriminate against that person in respect of employment or any term or condition of employment;

(b) no employment agency shall refuse to refer a person for employment, or for training for employment, and

(c) no trade union, employers' organization or occupational association shall refuse membership to, expel, suspend or otherwise discriminate against that person; or negotiate, on behalf of that person, an agreement that would discriminate against him;

because of race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political beliefs or family status of that person.

Am. S.M. 1976, c. 48, s. 6; Am. S.M. 1977, c. 46, ss. 2 & 3; S.M. 1982, c. 23, s. 9.

Discrimination prohibited in advertising.

6(2) No employer shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast, any words, symbol or other representation that indicate directly or indirectly that race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status is or may be a limitation, specification or preference for a position of employment.

Am. S.M. 1976, c. 48, s. 7; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 10.

Discrimination prohibited in advertising on behalf of an employer.

6(3) No person shall publish, display, circulate or broadcast or cause or permit to be published, displayed, circulated or broadcast any advertisement for a position of employment for or on behalf of an employer

(a) that contains any words, symbol, or other representation; or

(b) that is under a classification or heading;

indicating directly or indirectly that race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status is or may be a limitation, specification or preference for the position of employment.

Am. S.M. 1976, c. 48, s. 8; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 11.

Pre-employment inquiries.

6(4) No person shall use or circulate any form of application for employment or make any written or oral inquiry that expresses either directly or indirectly any limitation, specification or preference as to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status of any person or that requires an applicant for employment to furnish any information concerning those particulars.

Am. S.M. 1976, c. 48, s. 9; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 12.

Employment agencies.

6(5) No employment agency shall discriminate against any person because of race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, or political belief or family status in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant for employment to an employer or anyone acting on behalf of the employer.

Am. S.M. 1976, c. 48, s. 10; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 13.

Exception.

6(6) The provisions of this section relating to any discrimination, limitation, specification or preference for a position or employment based on sex, age, marital status, family status, physical or mental handicap, or political belief, do not apply, where

(a) sex, age, marital status, family status, or political belief, is a reasonable occupational qualification; or

(b) physical or mental handicap is a reasonable disqualification.

En. S.M. 1982, c. 23, s. 14.

Exception.

6(7) The provisions of this section relating to a limitation or preference in employment do not apply to an exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit and is operated primarily to foster the welfare of a group or class of persons characterized by a common race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin, where, in any such case, one or more of the above enumerated criteria is a bona fide occupational qualification and requirement.

Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 15.

6(8) Repealed. S.M. 1982, c. 23, s. 16.

Exception for persons under the age of majority.

6(9) Nothing in this section prevents a person from limiting the employment of a person under the age of majority or from classifying or referring to a person under the age of majority for employment in accordance with the provisions of any provincial law regulating the employment of persons under the age of majority.

Exception for physical or mental handicap.

6(10) The provisions of this section prohibiting the discrimination against a person for a position or employment by reason of the physical or mental handicap of the person do not apply where the nature and extent of the handicap reasonably precludes or renders the person incapable of satisfactorily discharging the duties of that position.

En. S.M. 1977, c. 46, s. 4; Am. S.M. 1982, c. 23, s. 17.

Handicapped persons with training and experience.

6(11) Notwithstanding subsection (10), no person shall refuse to employ a person who is physically or mentally handicapped, if the person has adequate training and experience and is qualified and capable to carry out the duties and functions of the position.

En. S.M. 1977, c. 46, s. 4; Am. S.M. 1982, c. 23, s. 18.

S.M. 1974, c. 65, s. 6; Am. S.M. 1976, c. 48, ss. 6-10; Am. S.M. 1977, c. 46, ss. 2-4; S.M. 1982, c. 23, ss. 9-18.

Discrimination prohibited in contracts.

7(1) No person shall, in making available to any person, a contract that is offered to the public generally,

(a) discriminate against any person; or

(b) include terms or conditions in any such contract that discriminate against a person;

on the basis of race, nationality, religion, colour, sex, age, marital status, family status, physical or mental handicap, ethnic or national origin of that person.

Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 19.

Exception.

7(2) No provision of section 6 or subsection (1) shall prohibit a distinction on the basis of age, sex, family status, physical or mental handicap or marital status

(a) of any employee benefit plan or in any contract which provides an employee benefit plan, if the Commission is satisfied on the basis of the guidelines set out in the regulations that the distinction is not discriminatory or that the employee benefit can be provided only if the distinction is permitted; or

(b) in any contract which provides life insurance, accident and sickness insurance or a life annuity to a specified person where the contract is not part of an employee benefit plan, if the Commission is satisfied on the basis of guidelines set out in the regulations that the distinction is not discriminatory or that the insurance or annuity can be provided only if the distinction is permitted.

En. S.M. 1976, c. 48, s. 11; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 20.

Automobile insurance contracts not affected.

7(3) Nothing in this Act prohibits a distinction on the basis of sex, age or marital status in any contract of automobile insurance offered or made available to the public under The Manitoba Public Insurance Corporation Act or The Insurance Act.

En. S.M. 1978, c. 43, s. 2.

S.M. 1974, c. 65, s. 7; Am. S.M. 1976, c. 48, s. 11; S.M. 1977, c. 46, s. 2; S.M. 1978, c. 43, s. 2; S.M. 1982, c. 23, ss. 19 & 20.

Restriction on use of white cane.

7.1(1) No person other than a blind person shall carry or use a white cane on any highway or public thoroughfare, or in any public conveyance or other public place.

En. S.M. 1982, c. 23, s. 21.

Dog guides to accompany blind persons.

7.1(2) Notwithstanding any enactment, regulation, or by-law, a dog guide

(a) while accompanying a blind person; and

(b) while in the custody and under the control of a blind person;

may, without charge, enter and remain with the blind person in any place where the public is admitted, or facility, or conveyance, where the public is accommodated.

En. S.M. 1982, c. 23, s. 21

Discrimination, etc., prohibited for taking part in proceeding under Act.

8 No person shall

(a) refuse to employ or continue to employ any person;

(b) threaten to dismiss or threaten to penalize in any way any person in regard to his employment or any term or condition thereof;

(c) discriminate against any person in regard to his employment or any term or condition thereof; or

(d) intimidate or coerce or impose any pecuniary or other penalty upon any person;

on the ground that such person,

(e) has made or may make a complaint under this Act;

(f) has made or may make a disclosure concerning the matter complained of;

(g) has testified or may testify in a proceeding under this Act; or

(h) has participated or may participate in any other way in a proceeding under this Act.

S.M. 1974, c. 65, s. 8; Am. S.M. 1975, c. 42, s. 26.

Special programs.

9 Notwithstanding the provisions of this Part, the Commission may, upon such conditions or limitations and subject to revocation or suspension, approve in writing a special plan or program by the Crown, any agency thereof, or any person designed to promote the socio-economic welfare and equality in status of a disadvantaged class of persons defined by race, nationality, religion, colour, sex, marital status, physical or mental handicap, family status, age, source of income or ethnic or national origin of the members of that class of persons.

En. S.M. 1978, c. 43, s. 3; Am. S.M. 1982, c. 23, s. 22.

PART II

ADMINISTRATION

Manitoba Human Rights Commission established.

10(1) There is hereby established a commission to be called: "The Manitoba Human Rights Commission".

Composition.

10(2) The Commission shall be composed of such numbers of persons as may be determined from time to time by the Lieutenant Governor in Council.

Members.

10(3) The members of the Commission shall be appointed by the Lieutenant Governor in Council.

Chairperson.

10(4) The Lieutenant Governor in Council shall designate one of the members as chairperson and one member as vice-chairperson.

Vacancies.

10(5) The Lieutenant Governor in Council may fill any vacancy however created, in the membership of the Commission.

Remuneration and term of office.

10(6) The Lieutenant Governor in Council may determine the term of office and the remuneration of the members of the Commission.

S.M. 1974, c. 65, s. 10.

Responsibility.

11 The Commission is responsible to the minister for the administration of this Act.

S.M. 1974, c. 65, s. 11.

Members of Commission continued in office.

12 Those persons, who on the coming into force of this Act are members of the Commission, shall continue to hold office until their successors are appointed.

S.M. 1974, c. 65, s. 12.

Function.

13 The Commission has power to administer this Act and without limiting the generality of the foregoing, it is the function of the Commission,

(a) to forward the principle that every person is free and equal in dignity and rights without regard to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political beliefs, family status or source of income;

(b) to promote an understanding of, acceptance of and compliance with this Act;

(c) to develop and conduct educational programs designed to eliminate discriminatory practices related to race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political beliefs, family status or source of income;

(d) to disseminate knowledge and promote understanding of the civil and legal rights of residents of the province and to conduct educational programs in that respect;

(e) to further the principle of equality of opportunities and equality in the exercise of civil and legal rights regardless of status.

S.M. 1974, c. 65, s. 13; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 23.

Employment of personnel.

14 An executive director and such other officers and employees as may be required for te purpose of the administration of this Act, may be employed under The Civil Service Act.

S.M. 1974, c. 65, s. 14.

Responsibility of the executive director.

15 The executive director of the Commission, in addition to such other duties, that he may be required to perform by law, shall

(a) be responsible to the Commission for its day-to-day activities and operations; and

(b) act as registrar of complaints received by the Commission to assure that they are dealt with according to the Act.

S.M. 1974, c. 65, s. 15.

Confidentiality of information.

16 Except for the purposes of a prosecution under this Act, or proceedings before a board of adjudication, or in any court proceedings, or for the purpose of the administration and enforcement of this Act, no person shall, except with the consent of the commission

(a) knowingly communicate, or allow to be communicated, to any person any information obtained by or on behalf of the commission or the Executive Director under this Act; or

(b) knowingly allow any person to inspect, or to have access to, any copy of any book, record, document, file, correspondence or other record obtained by, or on behalf of, the commission or the Executive Director under this Act.

En. S.M. 1976, c. 48, s. 12.

Costs of administration.

17 The costs of administering this Act shall be paid from and out of the Consolidated Fund with moneys authorized by an Act of the Legislature to be so paid and applied.

S.M. 1974, c. 65, s. 17.

Annual report.

18(1) The Commission shall prepare annually and submit to the minister, a report of the activities of the Commission and boards of adjudication during the preceding year.

Am. S.M. 1976, c. 48, s. 13.

Annual report.

18(2) The minister shall lay forthwith the report before the Legislative Assembly if it is in session and if not, with 15 days of the commencement of the next ensuing session.

S.M. 1974, c. 65, s. 18; Am. S.M. 1976, c. 48, s. 13.

PART III

ENFORCEMENT OF ACT

Complaints.

19(1) Any person who has reasonable grounds for believing that any person has contravened a provision of this Act, may file with the Commission a complaint in the form prescribed by the Commission, such complaint to be filed with the Commission not later than 6 months after the date of the alleged contravention or, where a continuing contravention is alleged, after the date of the last alleged contravention of this Act.

Consent of offended person.

19(2) Where a complaint is made by a person other than the person whom it is alleged was dealt with contrary to the provisions of this Act, the Commission may refuse to file the complaint unless the person alleged to be offended against consents thereto.

Complaints initiated by Commission.

19(3) Where the Commission has reason for believing that any person has contravened a provision of this Act in respect of a person or group of persons, the Commission may initiate a complaint.

S.M. 1974, c. 65, s. 19.

Commission may dismiss complaint.

19(4) Where the Commission is satisfied that a complaint is without merit, it may dismiss the complaint at any stage of the proceeding.

En. S.M. 1978, c. 43, s. 4.
S.M. 1974, c. 65, s. 19; Am. S.M. 1978, c. 43, s. 4.

Investigation of complaint.

20 The Commission shall, as soon as is reasonably possible, investigate any complaint of an alleged contravention of the Act.

S.M. 1974, c. 65, s. 20; Am. S.M. 1976, c. 48, s. 14.

Powers of commission after investigation.

21(1) The commission, after investigating the complaint, may

(a) endeavour to effect a settlement of the complaint of an alleged contravention of the Act, and failing settlement of the complaint, the commission may request the minister to appoint a board of adjudication to hear and decide the complaint; or

(b) request the minister to appoint a board of adjudication to hear and decide the complaint; or

(c) recommend that the minister commence a prosecution for an offence under this Act.

En. S.M. 1976, c. 48, s. 15.

Appointment of board.

21(2) The minister shall, within a reasonable time after the receipt of a request under clause (1)(a) or (b) appoint a board of adjudication consisting of one or more persons to hear and decide the complaint.

En. S.M. 1976, c. 48, s. 15.

Prohibition.

21(3) No person appointed to a board of adjudication shall have taken part in any investigation or consideration of the complaint prior to the inquiry by a board of adjudication.

En. S.M. 1976, c. 48, s. 15.

Powers of Commission and board of adjudication.

22 The Commission and any board of adjudication appointed under this Act may determine their procedure and each member of a board of adjudication has all the powers of a commissioner under Part V of The Manitoba Evidence Act, and Part V excepting section 88 of that Act, applies to any investigation being made by the Commission or any inquiry being made by a board of adjudication but no notice of the authorization or of the purpose or scope of the investigation or inquiry, as the case may be, is to be made by the Commission or board of adjudication and no notice of the time and place of the investigation or inquiry need be published as required under section 88 of that Act.

S.M. 1974, c. 65, s. 22.

Access to premises and documents.

23(1) For the purpose of investigating a specific complaint under this Act, the executive director, any person with the written authorization of the executive director, or the board of adjudication,

(a) shall have access during normal business hours to any land, residence or business premises of any person with respect to whom there is reasonable and probable grounds to believe that such access will assist the investigation of the complaint; and

(b) may inspect such specific documents, correspondence and records relevant to the complaint and may make copies thereof or take extracts therefrom.

En. S.M. 1976, c. 48, s. 16.

Court order for access.

23(2) Where a person refuses to grant access or to produce documents, correspondence or records as required under subsection (1), the executive director or a board of adjudication may on an ex parte application to a judge of the County Court or Provincial Judges Court, apply for an order granting him access to the land, residence, business premises, documents, correspondence or records, as the case may be; and the judge, if he is satisfied that the authority for access is reasonable and necessary, may grant the order.

En. S.M. 1976, c. 48, s. 16.

Information confidential.

23(3) Except for the purposes of a prosecution under this Act, or any court proceeding or for the purpose of the administration and enforcement of this Act, no person shall

(a) knowingly communicate, or allow to be communicated to any person any information obtained under this section; or

(b) knowingly allow any person to inspect, or to have access to, any copy of any document, correspondence or record, obtained under this section.

En. S.M. 1976, c. 48, s. 16.

Exception.

23(4) Subsection (3) does not prohibit

(a) the communication of any information by the executive director or a board of adjudication or by a person acting under the authority of the executive director, to persons charged with the administration of any statutes of Canada or any other province that relate to the subject matter of this Act; or

(b) the communication of any information with the consent of the person to whom the information relates; or

(c) the release or publication by the executive director or the board of adjudication, with the consent of the owner, of any document, correspondence or record or any copy thereof.

En. S.M. 1976, c. 48, s. 16.

Obstruction.

24 No person shall hinder, obstruct, or interfere with or attempt to hinder, obstruct, molest or interfere with, the Commission or a person acting under the authority of the Commission or a board of adjudication in the exercise of their powers and duties under this Act.

S.M. 1974, c. 65, s. 24.

Hearing.

25(1) Upon the appointment of a board of adjudication the board shall without undue delay hold a public hearing for the purpose of inquiry into and deciding the complaint.

Evidence before board.

25(2) The board of adjudication may receive and accept, on oath, affidavit, or otherwise, such evidence or information as it, in its discretion, considers necessary and appropriate, whether or not such evidence or information would be admissible in a court of law.

Administration of oath.

25(3) Any member of the board of adjudication may administer an oath or affirmation to any witness who is called to give evidence before the board.

Notice to parties.

25(4) Before proceeding to hold a hearing, the board of adjudication shall give at least 10 days written notice of the date, time and place of the hearing to all the parties thereto, and a copy of the complaint shall be annexed to the notice.

Full opportunity to be heard.

25(5) The board of adjudication shall give to all parties to a hearing being conducted by it full opportunity to be represented by counsel, to present evidence and make submissions.

Exclusive jurisdiction of board to decide law and fact.

25(6) Subject to appeal under subsection 30(1), the board of adjudication has exclusive jurisdiction and authority to determine any question of fact or law or both required to be decided in reaching a decision as to whether or not any party has contravened this Act or for the making of any order pursuant to such decision.

En. S.M. 1976, c. 48, s. 17.
S.M. 1974, c. 65, s. 25; Am. S.M. 1976, c. 48, s. 17.

Parties to a hearing.

26 The parties to a hearing before a board of adjudication with respect to a complaint that is being inquired into by the board are,

(a) the Commission, which shall have the carriage of the complaint;

(b) the person named in the complaint as the complainant;

(c) any person named in the complaint and alleged to have been dealt with contrary to the provisions of this Act;

(d) the accused or any person named in the complaint as alleged to have contravened this Act; and

(e) any other person as may be determined by the board.

S.M. 1974, c. 65, s. 26.

Recording of oral evidence.

27 The oral evidence taken before a boad of adjudication shall be recorded.

S.M. 1974, c. 65, s. 27.

Powers of the board.

28(1) Where the board of adjudication decides that there has been no contravention of the Act by any party, it shall dismiss the complaint.

En. S.M. 1976, c. 48, s. 18.

Powers of board.

28(2) Where the board of adjudication decides that a party has contravened any provision of the Act, it may do one or more of the following things:

(a) Make an order requiring the party who contravened the Act to do or refrain from doing anything in order to secure compliance with the Act.

(b) Make an order requiring the party who contravened the Act to compensate the person discriminated against for all, or such part as a board may determine, of any wages or salary lost or expenses incurred by reason of the contravention of this Act.

(c) Order the person who contravened the Act to pay to the person discriminated against, a penalty or exemplary damages in such amount as the board may determine, if the board is of the opinion that the person discriminated against suffered damages in respect of his feelings, or selfrespect.

En. S.M. 1976, c. 48, s. 18.

Board of adjudication to advise Attorney-General if delay.

28(3) Where a board of adjudication has not rendered a decision within 90 days after being appointed, the board shall forthwith, in writing, advise the Attorney-General of the reasons for the delay and indicate when a decision will be rendered.

En. S.M. 1982, c. 23, s. 24.

Action by Attorney-General.

28(4) At any time after 90 days have elapsed from the date of appointment of a board of adjudication, the Attorney-General may do any one or more of the following things:

(a) Fix a time within which the board shall render its decision or finding.

(b) Revoke the appointment of the board of adjudication and appoint a new board of adjudication, in which case the provisions of sections 21 to 31 apply, mutatis mutandis.

(c) If the board has completed a hearing of the evidence, order the board to file with the Court of Queen's Bench the record of the proceedings together with all the evidence in the board's possession which forms part of the record.

En. S.M. 1982, c. 23, s. 24.

Disposition by Court of Queen's Bench.

28(5) Upon receipt of the record and evidence under clause (4)(c), the Court of Queen's Bench shall consider and dispose of the matter based on the record and evidence, mutatis mutandis, as it would dispose of an appeal under section 30.

En. S.M. 1982, c. 23, s. 24.
S.M. 1976, c. 48, s. 18; Am. S.M. 1982, c. 23, s. 24.

Order becoming judgment of court.

29(1) Subject to subsection (2), where a board of adjudication makes an order under clause 28(2)(b) or (c) or both, it may file a certified copy thereof in the Court of Queen's Bench and upon the filing of the order, it becomes a judgment of the Court of Queen's Bench and may be enforced as a judgment of that court.

En. S.M. 1976, c. 48, s. 19.

When order may be filed.

29(2) An order referred to in subsection (1) shall not be filed,

(a) until the time for appeal therefrom has expired and no appeal is filed; or

(b) where an appeal is filed against the order, after the appeal is dismissed.

S.M. 1974, c. 65, s. 29; Am. S.M. 1976, c. 48, s. 19.

Appeal.

30(1) Any party to a hearing before a board of adjudication may appeal from a decision or order of the board, within 30 days from the making of the decision or order, to the Court of Queen's Bench.

Service of notice of appeal.

30(2) A copy of the notice of appeal shall, within 7 days of the filing thereof be served personally or by registered mail to the appellant on all other persons who were parties to the hearing and on the board.

Record to be filed on appeal.

30(3) Forthwith upon the receipt of a notice of appeal under this section, the board of adjudication shall file with the Court of Queen's Bench, the record of the proceedings before it in which the decision or order appealed from was made which, together with a transcript of the oral evidence taken before the board, if it is not part of the record of the board, shall constitute the record in the appeal.

S.M. 1974, c. 65, s. 30.

Powers of court.

31 An appeal under section 30 may be made on questions of law or fact, or both, and the court after hearing the appeal may,

(a) affirm or reverse the decision or order of the board of adjudication; or

(b) direct the board to make any other decision or order that the board is authorized to make under the Act; or

(c) substitute its decision or order for that of the board.

S.M. 1974, c. 65, s. 31; Am. S.M. 1976, c. 48, s. 20.

Application to court for order for compliance.

32 Where a board of adjudication makes an order under clause 28(a) and the person against whom the order is made refuses, fails or neglects to comply with the order or any part thereof, the minister may apply by way of Originating Notice of Motion to the Court of Queen's Bench for an order requiring the person to comply with the order of the board of adjudication or any part thereof.

S.M. 1974, c. 65, s. 32; Am. S.M. 1976, c. 48, s. 21.

Offences and penalties.

33(1) Every person who,

(a) deprives, abridges or restricts or attempts to deprive, abridge or restrict any person or class of persons in the enjoyment of a right under this Act;

(b) contravenes any provision of this Act; or

(c) fails, refuses or neglects to comply with an order of a board of adjudication, in whole or in part, other than an order or part of an order directing for the payment of wages;

is guilty of an offence and liable on summary conviction,

(d) if an individual to a fine of not less than $100.00 and not more than $1,000.00; or

(e) if a corporation, trade union, employers' organization, employment agency or occupational association, to a fine of not less than $500.00 and not more than $5,000.00.

Laying of information.

33(2) A prosecution for an offence under this Act may be commenced on the information of the Commission or any person alleging on behalf of himself or of any class of persons that an offence has been committed under this Act.

Prosecution of employers' organization, trade union or occupational association.

33(3) A prosection for an offence under this Act may be brought against an employers' organization, trade union, or occupational association in the name of the organization, union or association; and for the purpose of such a prosecution the organization, union or association shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of such an organization, union, or association, shall be deemed to be an act or thing done or omitted by the employers' organization, trade union or occupational association.

Limitation of time for prosecution.

33(4) No information may be laid or prosecution commenced,

(a) with respect to an alleged offence under this Act after the expiration of one year from the date of the alleged offence; or

(b) with respect to the failure, refusal, or neglect to comply with an order or part of an order of a board of adjudication, after the expiration of one year from the date of the making of the order, or where an appeal was taken from the order and was dismissed, after the expiration of one year from the date of the dismissal of the appeal; or

(c) with respect to the failure, refusal or neglect to comply with an order or part of an order of a board of adjudication where the board has allowed time for compliance therewith, after the expiration of one year from the date of expiration of the time allowed by the board to comply with the order.

Consent to prosecution.

33(5) No prosecution for an offence under this Act shall be instituted without the consent in writing of the minister.

Technical defects.

33(6) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity.

S.M. 1974, c. 65, s. 33.

PART IV

MISCELLANEOUS

Injunction.

34 In addition to what may be permitted by this Act, a person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict a person or class of persons in the enjoyment of a right under this Act because of the race, nationality, religion, colour, sex, age, marital status, physical or mental handicap, ethnic or national origin, political belief, family status, or source of income of the person; may be restrained by an injuction issued in an action in the Court of Queen's Bench brought by any person against the person responsible for the deprivation, abridgement or other restriction or any attempt thereat.

S.M. 1974, c. 65, s. 34; Am. S.M. 1976, c. 48, s. 22; Am. S.M. 1977, c. 46, s. 2; S.M. 1982, c. 23, s. 25.

Regulations.

34.1 The Lieutenant Governor in Council may, for the purposes of section 7, make regulations prescribing guidelines which may be followed by, but are not necessarily binding upon, the commission or a board adjudication.

En. S.M. 1976, c. 48, s. 23.

Crown bound.

35 The Crown, and every servant and agent of the Crown, is bound by this Act.

S.M. 1974, c. 65, s. 35.

Transitional provision.

36 Where prior to the coming into force of the amendments set out in this Act, any matter, application, proceeding, investigation or hearing was commenced, that matter, application, proceeding, investigation or hearing shall be continued and completed in accordance with the provisions of The Human Rights Act, being chapter H175 of the Revised Statutes, as it stood prior to the coming into force of this Act.

En. S.M. 1976, c. 48, s. 24.

Repeal.

37 The Human Rights Act, being chapter 104 of the Statutes of Manitoba, 1970 (chapter H175 of the Continuing Consolidation of the Statutes of Manitoba) is repealed.

S.M. 1974, c. 65, s. 37.

Reference in continuing consolidation.

38 This Act may be referred to as chapter H175 in the continuing consolidation of the Statutes of Manitoba.

S.M. 1974, c. 35, s. 38.

Commencement of Act.

39 This Act comes into force on a day fixed by proclamation.

S.M. 1974, c. 65, s. 39.

Note: This Act was proclaimed in force on October 25, 1974. See Manitoba Gazette, October 19, 1974, page 1185.

Printed by the Queen's Printer for the Province of Manitoba

Complaint of Discrimination
Under The Manitoba Human Rights Act

Case No. _____

Name and Address of the person(s) filing the complaint (hereinafter called "the Complainant")	Name and Address of the person(s) complained against (hereinafter called "the Respondent")
Name and Address of any person or class of persons discriminated against in addition to or other than the Complainant(s)	

The Complainant alleges that in the Province of Manitoba

on or about the _____ day of _____, 19__,

OR

on a continuing basis
up to and including the _____ day of _____, 19__,

that the Respondent(s) did contravene section(s) _____ of **The Human Rights Act**, or any other applicable section, as follows:

SAMPLE

I certify that the foregoing information is correct to the best of my knowledge and I believe that the events described above constitute a contravention of **The Human Rights Act**.

I hereby confirm that the Manitoba Human Rights Commission and its officers have my consent to examine and/or make copies of any and all records, reports, documents or data, including all medical records, as may be required, in the investigation of this complaint.

City/Town Complaint Signed At	Date Day Month Year	Signature of Complainant

MG 6447 Form MHRC (HR) 3.2